

9. TEXT.

**SUBCHAPTER B. INSURANCE HOLDING COMPANY SYSTEMS**  
**28 TAC §§7.201 - 7.214**

**§7.201. Forms Filings.**

(a) General requirements.

(1) The forms ~~[that are]~~ specified in §§7.209 - 7.214 ~~[[§§7.209 - 7.213]~~ of this title (relating to Form A, Form B, Form C, Form D, ~~[and]~~ Form E, and Form F) are ~~[intended to be]~~ guides for preparing ~~[in the preparation of]~~ the statements, notices, and applications required by the Insurance Code Chapter 823 ~~[Article 21.49-1]~~. They ~~are to~~ provide notice of the information required and the location the department expects to find it ~~[in which it will be expected to be found]~~. In preparing any statement, notice, or application, the text of the form need not be repeated so long as it ~~[there]~~ is clear ~~[identity of the matter]~~ to which matter the answer or material applies. Unless expressly provided otherwise, if any item is inapplicable or the answer ~~[thereto]~~ is in the negative, an appropriate statement to that effect must ~~[shall]~~ be made. The forms specified in §§7.209 - 7.214 ~~[[§§7.209 - 7.213]~~ of this title are also referred to in this subchapter as Forms A - F ~~[A - E]~~. Form A is also referred to as the acquisition or divestiture statement, Form B as the registration statement, Form C as the summary of changes to the registration statement ~~[a disclaimer]~~, Form D as prior notice of a transaction, ~~[an extraordinary dividend, and]~~ Form E as a notice of dividend or distribution, ~~[an exemption statement.]~~ and Form F as an enterprise risk report. For use in accordance with §7.209(d) and (f) of this title ~~[and §7.210(e) of this title]~~, the department ~~[Texas Department of Insurance]~~ adopts by reference the biographical affidavit form published

1 by and available from the National Association of Insurance Commissioners [Texas  
2 ~~Department of Insurance~~. Copies of this form may be obtained from Financial Analysis  
3 and Examinations, Mail Code 303-1A, Texas Department of Insurance, P.O. Box  
4 ~~149099~~, 333 Guadalupe, Austin, Texas ~~78714-9099~~].

5 (2) Two complete originally signed copies (unless additional copies are  
6 requested by the commissioner) of each statement, notice, or application, including  
7 exhibits and all other papers and documents filed [~~as a part thereof~~,] in connection with  
8 any acquisition statement filed under §7.209 of this title, and one complete originally  
9 signed copy of every other statement, notice, or application, including exhibits and all  
10 other papers and documents filed [~~as a part thereof~~], must [~~shall~~] be filed with the  
11 commissioner by personal delivery or by mail addressed to : Financial Analysis [~~and~~  
12 ~~Examinations~~], Mail Code 303-1A, Texas Department of Insurance, P.O. Box 149104  
13 [~~149099~~], 333 Guadalupe, Austin, Texas 78714-9104 [~~78714-9099~~]. Each statement,  
14 notice, or application will [~~shall~~] be subject to the appropriate filing fee provided [~~for~~] in  
15 §7.1301 of this title (relating to Regulatory Fees). The appropriate filing fee must [~~shall~~]  
16 be forwarded to Financial Analysis [~~and Examinations~~] at the above address [~~of the~~  
17 ~~Texas Department of Insurance~~] under separate cover along with a copy of the letter  
18 transmitting the statement, notice, or application.

19 (3) Statements, notices, and applications should be prepared on paper 8  
20 1/2 inches by 11 inches or 8 1/2 inches by 14 inches in size and preferably bound at the  
21 top or top lefthand corner. All copies of any statement, notice, application, exhibit, or  
22 financial statement must [~~shall~~] be clear, easily readable, and suitable for photocopying.

Debit in credit categories and credits in debit categories must ~~[shall]~~ be designated so as to be clearly distinguishable ~~[as such]~~ on photocopies. Statements, notices, and applications must ~~[shall]~~ be in ~~[the]~~ English ~~[language]~~ and monetary values must ~~[shall]~~ be stated in United States currency. If any exhibit or other paper or document filed with a statement, notice, or application is in a foreign language, it must ~~[shall]~~ be accompanied by a translation into ~~[the]~~ English ~~[language]~~ and any monetary value shown in a foreign currency must ~~[shall]~~ be converted into United States currency with the rate of exchange ~~[used]~~ disclosed in the submission.

(4) Every statement, notice, or application must ~~[shall]~~ state on the cover ~~[face]~~ page ~~[thereof]~~ the names and addresses of all persons on whose behalf it ~~[the same]~~ is made.

(b) Incorporation by reference, summaries, and omissions.

(1) Information required by any item of any statement, notice, or application may be incorporated by reference in answer or partial answer to another item. Information contained in any instrument or document filed with the commissioner within five years and currently remaining on file may be incorporated by reference. The ~~[Such]~~ reference must ~~[shall]~~ clearly identify the material and indicate it is incorporated by reference.

(2) The right to incorporate by reference does not apply to §7.209 ~~[and §7.213]~~ of this title ~~[(relating to Form A and Form E)]~~ or to a completely restated up-to-date registration statement filed in accordance with §7.203(g) of this title (relating to Registration of Insurers) and §7.210 of this title ~~[(relating to Form B)]~~.

1                   (3) Where an item requires a summary or outline of the provisions of any  
2 document, only a brief statement must ~~[shall]~~ be made as to the most important  
3 provisions of the document. In addition to the ~~[such]~~ statement, the summary or outline  
4 may incorporate by reference particular parts of any exhibit or document for which  
5 reference is allowed by these sections. The particular page and paragraph of the  
6 exhibit or document to which reference is made must be specified. If two or more  
7 documents required to be attached as exhibits are substantially identical in all material  
8 respects, a copy of only one of the ~~[such]~~ documents need be filed. A schedule must  
9 ~~[shall]~~ be attached identifying and detailing the ways ~~[the details in which]~~ the ~~[such]~~  
10 other document differs from the filed exhibit.

11                   (4) By use of a reference, the person filing is ~~[shall be]~~ deemed to have  
12 verified the accuracy of the information referred to as though it was an original  
13 statement, unless the person filing identifies the ~~[such]~~ information as being not verified  
14 by the person filing.

15                   (c) Additional information and exhibits. In addition to the information expressly  
16 required to be included in the forms set out in these sections the filer must add any  
17 ~~[there shall be added such]~~ further material information needed ~~[, if any, as may be~~  
18 ~~necessary]~~ to make the information contained ~~[therein]~~ not misleading. The person  
19 filing may also file ~~[such]~~ exhibits ~~[as desired]~~ in addition to those expressly required ~~[by~~  
20 ~~the statement]~~. The ~~[Such]~~ exhibits must ~~[shall]~~ be so marked as to indicate clearly the  
21 subject matters to which they refer.

(d) Amendment. Any amendment to a statement, notice, or application must ~~[shall]~~ include on the top of the cover page the phrase "Amendment No." ~~[to]~~ and must ~~[shall]~~ indicate the date of amendment and not the date of the original filing.

(e) Information unknown or unavailable. ~~[Information required need be given only insofar as it is known or reasonably available to the person filing the statement.]~~ If any required information is unknown and not reasonably available to the person filing, either because ~~[the]~~ obtaining the information ~~[thereof]~~ would involve unreasonable effort or expense, or because it rests peculiarly within the knowledge of another person not affiliated with the person filing, the information may be omitted, subject to the following conditions: [-]

(1) The person filing must ~~[shall]~~ give the ~~[such]~~ information on the subject as the person ~~[he]~~ possesses or can acquire without unreasonable effort or expense, together with the sources ~~[thereof]~~.

(2) The person filing must ~~[shall]~~ include a statement either demonstrating that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to the ~~[such]~~ person for the information.

## **§7.202. Definitions.**

(a) The following words and terms, when used in this subchapter, ~~[shall]~~ have the following meanings, unless the context clearly indicates otherwise.

(1) (No change.)

1           (2) Affiliate--An affiliate of, or person affiliated with, a specific person<sup>[,]</sup> is  
2 a person that directly, or indirectly through one or more intermediaries, controls, or is  
3 controlled by, or is under common control with, the person specified. If the ~~[such]~~  
4 controlling person includes a member of the immediate family of a person, any other  
5 person that is an affiliate of such family member is ~~[shall be]~~ deemed to be an affiliate of  
6 the ~~[such]~~ controlling person.

7           (3) Commercially domiciled insurer--A foreign or alien insurer authorized  
8 to do business in this state<sub>1</sub> that during its three preceding fiscal years taken together, or  
9 any lesser period if it has been licensed to transact business in this state only for that  
10 lesser period, has written an average of more gross premiums in this state than it has  
11 written in its state of domicile during the same period, and such gross premiums  
12 constitute 30 percent ~~[30%]~~ or more of its total gross premiums everywhere in the  
13 United States for that three-year or lesser period, as reported in its three most recent  
14 annual statements. To determine if an insurer is a commercially domiciled insurer, the  
15 annual average ratio for premium receipts addressed in subparagraphs (A) and (B) of  
16 this paragraph must ~~[shall]~~ be calculated, as follows:

17                       (A) and (B) (No change.)

18           (4) Commissioner--The commissioner of insurance of the State of Texas,  
19 the commissioner's ~~[senior associates,]~~ associates<sup>[,]</sup> or deputies, or their designees, as  
20 appropriate.

21           (5) Control--The term "control," including the terms "controlling,"  
22 "controlled by," and "under common control with," means the power ~~[possession]~~, direct

1 or indirect, ~~[of the power]~~ to direct or cause the direction of the management and  
2 policies of a person, whether through the ownership of voting securities, by contract  
3 other than a commercial contract for goods or nonmanagement services, or otherwise,  
4 unless the power is the result of an official position with or corporate office held by the  
5 person. Control is ~~[shall be]~~ presumed to exist if any person, directly or indirectly, or  
6 with members of the person's immediate family, owns, controls, or holds ~~[with]~~ the  
7 power to vote, or if any person other than a corporate officer or director of a person  
8 holds proxies representing 10 percent ~~[40%]~~ or more of the voting securities or authority  
9 of any other person, or if any person by contract or agreement is designated as an  
10 attorney-in-fact for a Lloyd's plan insurer under the Insurance Code~~;~~ Chapter 941, or  
11 for a reciprocal or interinsurance exchange under the Insurance Code~~;~~ Chapter 942.  
12 This presumption may be rebutted by a showing made in the manner provided by the  
13 Insurance Code ~~[Act]~~, §823.005, that control does not exist in fact. The commissioner  
14 may determine, after furnishing all persons in interest with notice and opportunity to be  
15 heard and making specific findings of fact to support such determination, that control  
16 exists in fact, notwithstanding the absence of a presumption to that effect, where a  
17 person exercises<sub>1</sub> directly or indirectly<sub>1</sub> either alone or pursuant to an agreement with  
18 one or more other persons such a controlling influence over the management or policies  
19 of an authorized insurer as to make it necessary or appropriate in the public interest or  
20 for the protection of the policyholders of the insurer that the person be deemed to  
21 control the insurer.

22 (6) and (7) (No change.)

(8) Controlling producer--An insurance broker or brokers or any person, firm, association, or corporation domiciled, licensed, or operating in a state other than Texas, when, for any compensation, commission, or other thing of value, such person, firm, association, or corporation acts or aids in any manner in soliciting, negotiating, or procuring the making of any insurance contract on behalf of an insured other than such person, firm, association, or corporation, and who, directly or indirectly:

(A) (No change.)

(B) writes or places, in any calendar year, an aggregate amount of gross written premiums with the ~~[such]~~ controlled property and casualty insurer which is equal to or greater than 5.0 percent ~~[5.0%]~~ of the admitted assets of the ~~[such]~~ insurer as reported in the ~~[such]~~ insurer's quarterly statement filed as of September 30 ~~[th]~~ of the prior year. The term "producer" or "controlling producer" as used in these sections is not intended to include an agent or any independent agent acting on behalf of the controlled insurer, licensed pursuant to the Insurance Code<sup>[7]</sup> Chapter 4001 ~~[24]~~, Subchapter A, and any subagent or representative of the agent, who acts ~~[as such]~~ in the solicitation of, negotiation for, or procurement or making of an insurance contract, if the agent is not also acting on behalf of an insured as set forth in this paragraph, in the transaction in question. The term "producer" or "controlling producer" as used in these sections is not intended to include an attorney-in-fact acting on behalf of a licensed Lloyd's or licensed reciprocal or interinsurance exchange.

(9) Director--A person elected or appointed as a member of a board of directors responsible for the management of an insurer. The term must ~~[shall]~~ also



1 include an attorney-in-fact of a Lloyds or reciprocal or interinsurance exchange who is  
2 charged with responsibility for the management of an insurer.

3 (10) Divesting person--A person who has control of a domestic insurer  
4 and who intends to divest control of the domestic insurer.

5 (11) Divestiture--An abandonment of control of a domestic insurer by a  
6 divesting person that does not result in the transfer of control to another person.

7 (12) Enterprise risk--Any activity, circumstance, event, or series of events  
8 involving one or more affiliates of an insurer that, if not remedied promptly, is likely to  
9 have a material adverse effect on the financial condition or liquidity of the insurer or its  
10 insurance holding company system as a whole, including anything:

11 (A) that would cause the insurer's risk-based capital to fall into  
12 company action level; or

13 (B) that would cause the insurer to be in hazardous financial  
14 condition.

15 (13) [(10)] Executive officer--The chairman of the board of directors, the  
16 president, any vice-president of an applicant in charge of a principal business unit,  
17 division, or function (such as sales, administration, finance, or underwriting), any other  
18 officer who performs a policy-making function, or any other person who performs similar  
19 policy-making functions for an applicant. Executive officers of subsidiaries may be  
20 deemed executive officers of an applicant if they perform [such] policy-making functions  
21 for an applicant.

22 (14) [(11)] Foreign insurer--Includes an alien insurer.

1           (15) [(12)] Holding company--Any person who directly or indirectly controls  
2 any insurer, but not including any ~~except that it shall not be deemed to include:~~  
3 agency, authority, or instrumentality of the United States, its possessions and territories,  
4 the Commonwealth of Puerto Rico, the District of Columbia, or a state or political  
5 subdivision of a state ~~[the United States, a state or any political subdivision, agency or~~  
6 ~~instrumentality thereof]~~ or any corporation which is wholly owned, directly or indirectly,  
7 by any of them ~~[one or more of the foregoing].~~

8           (16) [(13)] Immediate family--A person's spouse, father, mother, children,  
9 brothers, sisters, and grandchildren, the father, mother, brothers, and sisters of the  
10 person's spouse, and the spouse of the person's child, brother, ~~or~~ sister, mother,  
11 father, or grandparent.

12           (17) [(14)] Insurance holding company system—~~[Consists of]~~ Two ~~[two]~~ or  
13 more affiliated persons, one or more of which is an insurer.

14           (18) [(15)] Insurer--Includes all insurance companies organized or  
15 chartered under the laws of this state, commercially domiciled insurers, or insurers  
16 licensed to do business in this state, including capital stock companies, mutual  
17 companies, farm mutual insurance companies, title insurance companies, fraternal  
18 benefit societies, local mutual aid associations, local mutual burial associations,  
19 statewide mutual assessment companies, county mutual insurance companies, Lloyds'  
20 plan companies, reciprocal or interinsurance exchanges, stipulated premium insurance  
21 companies, ~~and~~ group hospital service companies~~;~~ and health maintenance  
22 organizations, and any other entity which is ~~made~~ subject to the Insurance Code~~;~~

Chapter 823 by applicable law, but does ~~[except that it shall]~~ not include agencies, authorities, or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state.

(19) ~~[(16)]~~ Person--An individual, [a] corporation, [a] partnership, [an] association, [a] joint stock company, [a] trust, [an] unincorporated organization, or ~~[any]~~ similar entity or ~~[any]~~ combination of them ~~[the foregoing]~~ acting in concert, but not a ~~[shall not include any]~~ securities broker performing only ~~[no more than]~~ the usual and customary broker's function.

(20) ~~[(17)]~~ Security holder of a specified person--One ~~[Of a specified person is one]~~ who owns any security of the ~~[such]~~ person, including common stock, preferred stock, debt obligations, and any other security convertible into or evidencing the right to acquire any of the foregoing. The term "debt obligation" does ~~[shall]~~ not include trade, commercial, or open accounts, matured claims, or agents' commissions.

(21) ~~[(18)]~~ Subsidiary of a specified person--~~An~~ ~~[Of a specified person is an]~~ affiliate controlled by the ~~[such]~~ person directly or indirectly through one or more intermediaries.

(22) ~~[(19)]~~ Ultimate controlling person--That person which is not controlled by another person (as defined in this subsection).

(23) ~~[(20)]~~ Voting security--Any security or other instrument giving or granting to the holder the power to vote at a meeting of shareholders, ~~[of a person]~~ for or against the election of directors, or any other matter involving the direction of the

1 management and policies of the ~~[such]~~ person, or any other security or instrument  
2 ~~[which]~~ the department ~~[Texas Department of Insurance]~~ deems to be of similar nature  
3 including, but not limited to, those described in the ~~[such]~~ rules and regulations ~~[as]~~ the  
4 department ~~[Texas Department of Insurance]~~ may prescribe in the public interest as a  
5 voting security.

6 (b) Exemption--Commercially Domiciled Insurer.

7 (1) The commissioner may exempt from the provisions of the Insurance  
8 Code Chapter 823 and these sections, except the registration requirement, any  
9 commercially domiciled insurer if the commissioner determines ~~[that]~~ the insurer has  
10 assets physically located in this state or an asset to liability ratio sufficient to justify the  
11 conclusion that there is no reasonable danger that the operations or conduct of the  
12 business of the insurer could present a danger of loss to the policyholders of this state.  
13 The exemption granted under this subsection must ~~[shall]~~ set forth the specific criteria  
14 under which it is granted and will ~~[shall]~~ be subject to annual review. The commissioner  
15 may, after notice and opportunity for hearing, rescind an exemption granted to a  
16 commercially domiciled insurer under the provisions of the Insurance Code Chapter 823  
17 and these sections. A rescission of an exemption must ~~[shall]~~ set forth the rationale for  
18 the rescission. Requests for an exemption under this subsection must ~~[shall]~~ be filed  
19 with ~~[the]~~ Financial Analysis ~~[Division]~~, Mail Code 303-1A, Texas Department of  
20 Insurance, P.O. Box 149104 ~~[149099]~~, 333 Guadalupe, Austin, Texas 78714-9104  
21 ~~[78714-9099]~~. The request must contain a signed and notarized affidavit of an  
22 executive officer of the insurer that, should the exemption be granted, the insurer will

1 ~~[has agreed to]~~ notify ~~[the]~~ Financial Analysis ~~[Division]~~ within 10 ~~[ten]~~ days after it no  
2 longer meets the criteria set out in this section on which the exemption is based. In  
3 determining that a commercially domiciled insurer has sufficient assets to justify the  
4 conclusion that there is no reasonable danger that the operations or conduct of the  
5 business of the insurer could present a danger of loss to policyholders of this state, the  
6 commissioner must ~~[shall]~~ give consideration to the matters contacted in subparagraphs  
7 (A) - (D) of this paragraph in connection with an exemption requested under the  
8 Insurance Code §823.015, and these sections.

9 (A) Assets in Texas, which are either:

10 (i) (No change.)

11 (ii) qualifying authorized investments under the Insurance  
12 Code comprising 20 percent ~~[20%]~~ of the insurer's admitted assets and physically  
13 located in Texas.

14 (B) Adequacy of policyholder surplus, based upon:

15 (i) and (ii) (No change.)

16 (iii) the insurer having capital and surplus equal to 250  
17 percent ~~[250%]~~ of the minimum risk-based capital described in §7.402 of this title  
18 ~~[chapter]~~ (relating to Risk-Based Capital and Surplus Requirements for Insurers and  
19 HMOs); or

20 (iv) (No change.)

21 (C) and (D) (No change.)

(2) The provisions of this subchapter do ~~[shall]~~ not apply to a foreign or alien insurer if the commissioner has approved a total withdrawal plan from writing all lines of insurance for the ~~[such]~~ insurer under the Insurance Code Chapter 827.

**§7.203. Registration of Insurers.**

(a) Except as provided by the Act, every insurer ~~[which is]~~ authorized or incorporated to do business in this state and which is a member of an insurance holding company system must ~~[shall]~~ register in accord ~~[accordance]~~ with the Act~~[, §3]~~. ~~[An insurer which is a member of an insurance holding company system which ceases to be exempt from regulation under the Act, §2(r), shall register in accordance with the Act, §3.]~~ The exemption from registration for a foreign insurer does not apply to a commercially domiciled insurer doing business in this state; nor to a commercially domiciled insurer granted an exemption under §7.202 of this title (relating to Definitions). The commissioner ~~[Commissioner]~~ must ~~[shall]~~ terminate the registration of a commercially domiciled insurer when it is demonstrated that it no longer meets the definition of commercially domiciled insurer in subparagraph (3) of §7.202 of this title ~~[(relating to Definitions)]~~.

(b) Information filing from insurers. Every insurer which is authorized to do business in this state and which is a member of an insurance holding company system and is not required to register under subsection (a) of this section shall furnish to the commissioner ~~[of insurance]~~ a copy of the registration statement or other information

1 filed by such insurer with the insurance regulatory authority of its domiciliary jurisdiction  
2 and all amendments ~~[thereof]~~, if required by the commissioner.

3 (c) Information and forms required. Every insurer subject to registration must  
4 ~~[shall]~~ file a registration statement in accord ~~[accordance]~~ with §7.210 of this title  
5 (relating to Form B), §7.211 of this title (relating to Form C), and as applicable to §7.214  
6 of this title (relating to Form F) providing current information about the requested  
7 matters.

8 (d) Materiality. Information which is not material for the purposes of the Act,  
9 ~~§3,~~ need not be filed pursuant to the Act, §823.054 ~~§3(b) and (d). See the Act, §3(c),~~  
10 for certain requirements respecting materiality. See subsection (f) of this section for the  
11 rule on material changes.

12 (e) Amendments to registration statements. Each registered insurer must ~~[shall]~~  
13 keep current the information required to be disclosed in its registration statement by  
14 reporting all material changes or additions (whether single transactions or cumulative in  
15 total). The ~~[Such]~~ amendment must ~~[shall]~~ be in accord ~~[accordance]~~ with §7.210 of this  
16 title ~~[(relating to Form B)]~~, the registration statement, the cover page requirements of  
17 §7.201(d) of this title (relating to Forms Filings), and with a positive statement as to the  
18 items of the form not being amended instead of setting out the ~~[such]~~ unamended  
19 portions. The ~~[Such]~~ amendment must ~~[shall]~~ be filed within 15 days after the end of the  
20 month in which the registered insurer learns of the ~~[each such]~~ change or addition. Any  
21 transaction that is formally approved by official order of the commissioner ~~[under any of~~

1 ~~the following enumerated provisions]~~ is ~~[shall be]~~ deemed to be an amendment to the  
2 registration statement without further action or filing.[:]

3 ~~[(1) the Act, §4;]~~

4 ~~[(2) any transactions reported in an acquisition statement (Form A) under~~  
5 ~~the Act, §5;]~~

6 ~~[(3) the Insurance Code, Article 21.25, §§1-5, dealing with the merger or~~  
7 ~~consolidation of two or more insurers and complying with the terms of such article;]~~

8 ~~[(4) the Insurance Code, Article 11.20;]~~

9 ~~[(5) the Insurance Code, Article 11.21;]~~

10 ~~[(6) the Insurance Code, Article 14.13;]~~

11 ~~[(7) the Insurance Code, Article 14.61;]~~

12 ~~[(8) the Insurance Code, Article 14.63;]~~

13 ~~[(9) the Insurance Code, Article 21.26, provided that all or 100% of the~~  
14 ~~stock is initially and simultaneously purchased in order to effect a total reinsurance;]~~

15 ~~[(10) the Insurance Code, Article 22.15, provided that all requirements of~~  
16 ~~the article are met;]~~

17 ~~[(11) the Insurance Code, Article 22.19, provided that the reinsurance is a~~  
18 ~~total direct reinsurance; and]~~

19 ~~[(12) any other transaction formally approved by official order of the~~  
20 ~~commissioner under authority authorized by any other provisions of the Insurance~~  
21 ~~Code.]~~



(f) Material changes. The following occurrences are ~~[shall]~~, without limiting  
~~[limitation on]~~ the meaning of the phrase "material changes," ~~[be]~~ deemed ~~[to be]~~  
material changes for ~~[the]~~ purposes of filing an amendment to the registration  
statement:

(1) any acquisition of a voting security of a domestic insurer, directly or  
indirectly, by a person in control of the ~~[such]~~ domestic insurer if, after the ~~[such]~~  
acquisition, the ~~[such]~~ person, directly or indirectly, owns or controls less than 50  
percent ~~[50%]~~ of the then issued and outstanding voting securities of the ~~[such]~~  
domestic insurer, in which case §7.210(b) and (c) of this title ~~[(relating to Form B)]~~ must  
~~[shall]~~ be made current;

(2) any acquisition of a voting security of a domestic insurer, directly or  
indirectly, by a person that~~[,]~~ prior ~~[thereto]~~, directly or indirectly, owns or controls more  
than 50 percent ~~[50%]~~ of the then issued and outstanding voting securities of the ~~[such]~~  
domestic insurer, in which case §7.210(b) and (c) of this title ~~[(relating to Form B)]~~ must  
~~[shall]~~ be made current;

(3) a change in the control of the registrant, in which case the entire  
registration statement must ~~[shall]~~ be made current (~~[this paragraph is effective]~~  
notwithstanding any other provision of this subchapter);

(4) a change in the information required by §7.210(f) and (g) of this title  
~~[(relating to Form B)]~~, in which case the respective subsection must ~~[shall]~~ be made  
current;

1 (5) a change of the chief executive officer, president, or more than one-  
2 third of the directors reported in §7.210(e) of this title [~~(relating to Form B)~~], in which  
3 case the respective subsection must [~~shall~~] be made current;

4 (6) any transaction with an affiliate or affiliates which, when taken  
5 together with all other transactions with affiliates [~~(excluding those transactions~~  
6 approved under §7.204(a)(1) of this title (relating to Transactions Subject to Prior Notice  
7 [~~Commissioner's Approval Required~~]) and those transactions for which notification is  
8 given under §7.204(a)(2) occurring within 12 months next preceding, in the aggregate or  
9 cumulatively involve the lesser of one-half of 1.0 percent [~~1.0%~~] or more of an insurer's  
10 admitted assets, or 5.0 percent [~~5.0%~~] or more of an insurer's surplus, calculated as of  
11 the 31st day of December next preceding. In this [~~such~~] case, §7.210(c) and (f) of this  
12 title [~~(relating to Form B)~~] must [~~shall~~] be made current together with a report of all  
13 transactions with affiliates regardless of size within 12 months next preceding. After the  
14 [~~such~~] transactions are reported and the filings pursuant to §7.210(c) and (f) are made  
15 current, each subsequent transaction with an affiliate which, when taken together with  
16 those transactions which occurred within the 12 months next preceding, were reported  
17 pursuant to this subsection and which aggregately or cumulatively involve the lesser of  
18 one-half of 1.0 percent [~~1.0%~~] or more of an insurer's admitted assets, or 5.0 percent  
19 [~~5.0%~~] or more of an insurer's surplus, calculated as of the 31st day of December next  
20 preceding, must [~~shall~~] be reported pursuant to subsection (e) of this section [~~§7.203(e)~~  
21 ~~of this title (relating to Registration of Insurers)~~].

1 (g) Annual amendment. Within 120 days after the end of each fiscal year of the  
2 ultimate controlling person (that person which is not controlled by another person) of the  
3 insurance holding company system, the registrant must ~~[shall]~~ file an annual registration  
4 statement. An insurer required to file an annual registration statement must also furnish  
5 a summary of material changes from the prior year's annual registration statement  
6 pursuant to §7.211 of this title ~~(relating to Form C). [an amendment to the registration~~  
7 ~~statement which shall make the registration statement current. Within 120 days of the~~  
8 ~~end of each calendar year ending in a five or a zero, the registrant shall file a completely~~  
9 ~~restated up-to-date registration statement as set out in §7.210 of this title (relating to~~  
10 ~~Form B), with amendments consolidated therein. The registrant is not required to file an~~  
11 ~~annual amendment to its registration statement under this subsection in the year that it~~  
12 ~~files a completely restated up-to-date registration statement. The registration statement~~  
13 ~~referred to in §7.1301(d)(22) of this title (relating to Regulatory Fees) includes each~~  
14 ~~annual amendment to the registration statement and the completely restated up-to-date~~  
15 ~~registration statement.]~~

16 (h) Termination of registration. The commissioner must ~~[shall]~~ terminate the  
17 registration of any insurer as provided in the Insurance Code ~~[Act,]~~ §823.056 ~~[\$3(f)]~~.

18 (i) Consolidated filing. Any licensed insurer may file a consolidated registration  
19 statement or any amendment ~~[thereto]~~ on behalf of itself and any affiliated insurer or  
20 insurers which are required to register under subsection (a) of this section, if so  
21 authorized by such affiliates. Each registration statement may include information  
22 regarding any insurer in the insurance holding company system even if the ~~[such]~~

insurer is not authorized to do business in this state. Each licensed insurer in the [such] filing must [~~shall undertake the duty to~~] determine the correctness of the entire statement and [any] amendments and is bound by the terms of the entire statement and [or] amendment. The [Such] statement may be made under the provisions of subsection (j) of this section.

(j) Alternative registration.

(1) In lieu of filing a registration statement as specified in §7.210 of this title [~~(relating to Form B)~~], a licensed insurer may file a copy of the registration statement or similar report [which] it is required to file in its state of domicile (or a report [which] it is required to file in another state where it is licensed if its state of domicile requires no such report) provided:

(A) the statement or report contains information substantially similar to information required [~~to be furnished as specified~~] in §7.210 of this title [~~(relating to Form B)~~] and any of the [such] information not in the [such] statement or report is provided by supplement; and

(B) (No change.)

(2) [~~The question of~~] Whether [~~whether~~] the filing insurer is the principal insurer in the insurance holding company system is a question of fact.[:;] An [~~an~~] insurer filing a registration statement (or report in lieu of the information specified in §7.210 of this title [~~(relating to Form B)~~] on behalf of an affiliated insurer must [~~shall~~] set forth a simple statement of facts which will substantiate the filing insurer's claim that it [~~, in fact,~~] is the principal insurer in the insurance holding company system.

1 (3) (No change.)

2 (4) The commissioner may require under this subsection or subsection (i)  
3 of this section separate filings if the commissioner [he] deems the [such] filings  
4 necessary in the interest of clarity, ease of administration, or the public good.

5 (k) Enterprise Risk Report. The ultimate controlling person of an insurer  
6 required to file an enterprise risk report pursuant to the Insurance Code §823.0595 must  
7 furnish the required information on Form F, which is made a part of these regulations.

8 (l) [(k)] Exemptions. The provisions of this section do [shall] not apply to any  
9 insurer, information, or transaction if and to the extent exempted by [that] the  
10 commissioner by rule, regulation, or order [shall exempt the same].

11 (m) [(l)] Disclaimer.

12 (1) Any person may file with the commissioner a disclaimer of control or  
13 affiliation with any insurer, or the [such-a] disclaimer may be filed by the [such] insurer  
14 or any member of an insurance holding company system. [The disclaimer shall be in  
15 accordance with §7.211 of this title (relating to Form C) and shall disclose all material  
16 relationships and bases for affiliation between such persons and such insurer as well as  
17 the basis for disclaiming such affiliation.]

18 (2) A disclaimer of affiliation or a request for termination of registration  
19 claiming that a person does not, or will not upon the taking of some proposed action,  
20 control another person (referred to as the “subject”) must contain the following  
21 information:

1                   (A) the number of authorized, issued, and outstanding voting  
2 securities or rights of the subject;

3                   (B) with respect to the person whose control is denied and all  
4 affiliates of the person, the number and percentage of shares of the subject's voting  
5 securities which are held of record or known to be beneficially owned, and the number  
6 of shares concerning which there is a right to acquire, directly or indirectly;

7                   (C) all material relationships and bases for affiliation between the  
8 subject and the person whose control is denied and all affiliates of the person; and

9                   (D) a statement explaining why the person should not be  
10 considered to control the subject.

11               (3) The applicant must simultaneously furnish a [A] copy of any disclaimer  
12 filed with the commissioner to the insurer, if the affected insurer is not a party to it  
13 ~~[thereto, shall also be furnished by the applicant to the insurer at the same time it is filed~~  
14 ~~with the commissioner].~~ The insurer must ~~[shall]~~, within 15 business days after receipt  
15 ~~[thereof]~~, unless the time is extended by the commissioner for good cause, respond to  
16 the matters raised in the disclaimer.

17               (4) The applicant of a disclaimer which has been allowed must notify the  
18 commissioner within 15 days after the end of the month if any information constituting  
19 the basis for the disclaimer is incomplete, inaccurate, or no longer accurate. The  
20 commissioner may disallow the disclaimer for failure to provide the information. [After a  
21 ~~disclaimer has been filed, the insurer shall be relieved of any duty to register or report~~  
22 ~~under subsection (a) of this section which may arise out of the insurer's relationship with~~

1 ~~such person unless and until the commissioner disallows such a disclaimer. Unless~~  
2 ~~disallowed by the commissioner, a disclaimer filed under this subsection relieves a~~  
3 ~~person of the duty to comply with the requirements of the Act, §5(a)-(c). The~~  
4 ~~commissioner shall disallow such a disclaimer only after furnishing all parties in interest~~  
5 ~~with notice and opportunity to be heard and after making specific findings of fact to~~  
6 ~~support such disallowance.]~~

7           (5) After a disclaimer of control or affiliation has been filed by any person,  
8 any acquisition, in any manner, directly or indirectly, of a voting security of the domestic  
9 insurer by the [such] person is [shall be] subject to the Act, [§5,] in the absence of the  
10 filing within 15 days after the end of the month in which the acquisition of an additional  
11 voting security occurs, of an amendment [which shall] makes [make] current the  
12 disclaimer of control or affiliation previously filed pursuant to this subsection.

13           (n) [(m)] Violations. The failure to file a registration statement or any amendment  
14 [thereto] to a Form B (relating to Registration Statement) or Form F (relating to  
15 Enterprise Risk Report) [required] within the time specified for the [such] filing is [shall  
16 be] a violation of this section.

17           (o) [(n)] Dividends and distributions. Each registered insurer must [shall], by  
18 personal delivery, by telecopy or facsimile, or by mail addressed to: Financial Analysis  
19 [and Examinations], Mail Code 303-1A, Texas Department of Insurance, P.O. Box  
20 149104 [149099], 333 Guadalupe, Austin, Texas 78714-9104 [78714-9099], provide  
21 notice to the commissioner of all dividends and other distributions to shareholders within  
22 two business days following the declaration [thereof] and at least 10 [ten] calendar days

prior to payment in the Form E (relating to Notice of Dividend or Distribution) ~~[form prescribed by the commissioner and adopted herein by reference as Form HCDividend (Rev. 01/2002)]~~ and the ~~[such]~~ notice is ~~[shall be]~~ deemed an amendment to the registration statement without further action or filing. Prepayment notices will be considered promptly. Each prepayment notice must ~~[shall]~~ be accompanied by documentation supporting each of the standards specified in the Insurance Code ~~[Act]~~, §823.008 ~~[4(b)]~~, unless the ~~[such]~~ documentation has previously been provided during the current calendar year and the person to whom the ~~[such]~~ documentation was sent is identified. Dividends and distributions must ~~[shall]~~ be reviewed by the commissioner and, if the standards in the Act, §823.008 ~~[4(b)]~~ are not met, the commissioner will ~~[shall]~~ take appropriate action, including, but not limited to, that provided under the Insurance Code §§82.001 - 82.056, 83.001 - 83.153 and Chapters 403, 404, 441 and 443 ~~[Articles 1.32, 21.28, 21.28-A, 21.31, and 21.32]~~. All reported dividends and distributions must ~~[shall]~~ be reviewed annually in the registration statement filed pursuant to §7.210 of this title. See §7.204(d) of this title ~~[(relating to Commissioner's Approval Required)]~~ for requirements regarding extraordinary dividends and distributions.

**§7.204. Transactions Subject to Prior Notice** ~~**[Commissioner's Approval Required]**~~.

(a) Prior approval and notice.



(1) The prior written approval of the commissioner is ~~[shall be]~~ required for the transactions specified in the Act, §823.102 ~~[\$4(d)(1)]~~. This section only applies to sales, purchases, exchanges, loans or extensions of credit, or investments, involving an amendment or modification of an affiliate agreement previously filed under this section, that involve more than the lesser of 5 percent of the insurer's admitted assets or 25 percent of the insurer's surplus, as of December 31 of the year preceding the year in which the transaction occurs.

(2) The following transactions pursuant to the Act, §823.103, including any amendments or modification of an agreement as previously filed between a domestic insurer and any person in its holding company system may not be entered into unless the insurer has notified the commissioner in writing of its intention to enter into any like ~~[such]~~ transaction at least 30 days prior ~~[thereto]~~, or a ~~[such]~~ shorter period as the commissioner ~~[he]~~ may permit, and the commissioner ~~[he]~~ has not disapproved it within the ~~[such]~~ period:

(A) sales, purchases, exchanges, loans or extensions of credit, or investments, involving either more than one-half of 1.0 percent ~~[1-0%]~~ but less than 5.0 percent ~~[5-0%]~~ of the insurer's admitted assets, or more than 5.0 percent ~~[5-0%]~~ but less than 25 percent ~~[25%]~~ of the insurer's surplus, whichever is the lesser, as of the 31st day of December next preceding, and transactions in the securities of affiliates other than a subsidiary of an insurer, which are not subject to paragraph (1) of this subsection;

1 (B) reinsurance agreements, including reinsurance treaties, or  
2 pooling agreements, or any amendments or modification to any agreement, and [or  
3 agreements or modifications to those treaties or agreements, including] those  
4 agreements that may require as consideration the transfer of assets from an insurer to a  
5 nonaffiliate, if an agreement or understanding exists between the insurer and  
6 nonaffiliate that any portion of the assets will be transferred to one or more affiliates of  
7 the insurer;

8 (C) (No change.)

9 (D) management or service agreements, cost sharing agreements,  
10 rental or leasing agreements must at a minimum and as applicable:[:]

11 (i) identify the person providing services and the nature of  
12 the services;

13 (ii) set forth the methods to allocate costs to include  
14 §823.101(e);

15 (iii) require timely settlement, on at least a quarterly basis,  
16 and compliance with the requirements in the Accounting Practices and Procedures  
17 Manual published by the National Association of Insurance Commissioners;

18 (iv) prohibit advancement of funds by the insurer to the  
19 affiliate except to pay for services defined in the agreement;

20 (v) state that the insurer will maintain oversight for functions  
21 provided to the insurer by the affiliate and that the insurer will monitor services annually  
22 for quality assurance;

1                                (vi) define books and records of the insurer to include all  
2 books and records developed or maintained under or related to the agreement;

3                                (vii) specify that all books and records of the insurer are and  
4 remain the property of the insurer and are subject to control of the insurer;

5                                (viii) state that all funds and invested assets of the insurer  
6 are the exclusive property of the insurer, held for the benefit of the insurer and are  
7 subject to the control of the insurer;

8                                (ix) include standards for termination of the agreement with  
9 and without cause;

10                               (x) include indemnifying the insurer in the event of gross  
11 negligence or willful misconduct by the affiliate providing the services;

12                               (xi) specify that, if the insurer is placed in receivership or  
13 seized by the commissioner under the Insurance Code Chapter 443:

14                               (I) all of the rights of the insurer under the agreement  
15 extend to the receiver or commissioner; and

16                               (II) all books and records will immediately be made  
17 available to the receiver or the commissioner, and must be turned over to the receiver  
18 or commissioner immediately upon the receiver or the commissioner's request;

19                               (xii) specify that the affiliate has no automatic right to  
20 terminate the agreement if the insurer is placed in receivership pursuant to the  
21 Insurance Code Chapter 443; and

1                                (xiii) specify that the affiliate will continue to maintain any  
2 systems, programs, or other infrastructure notwithstanding a seizure by the  
3 commissioner under the Insurance Code Chapter 443, and will make them available to  
4 the receiver, for so long as the affiliate continues to receive timely payment for services  
5 rendered;

6                                (E) agreements to consolidate federal income tax returns, which  
7 agreements must ~~shall~~ provide that a domestic insurer will be adequately indemnified  
8 in the event the Internal Revenue Service levies upon the insurance company's assets  
9 for unpaid taxes in excess of the amount paid under the agreement;

10                              (F) (No change.)

11                              (G) participation in an investment pool by a property and casualty  
12 insurer pursuant to the Insurance Code Chapter 424 ~~[Article 2.10-5]~~; and

13                              (H) (No change.)

14                              (3) A domestic insurer may not enter into transactions that are part of a  
15 plan or series of similar transactions with persons within the holding company system to  
16 avoid the statutory threshold amount and ~~[thus]~~ avoid review. If the commissioner  
17 determines that the transactions were entered into over any 12-month period for that  
18 purpose, the commissioner may consider the series of transactions with regard to their  
19 cumulative effect and may apply the applicable statutory thresholds or the  
20 commissioner may apply sanctions under the Code.

1                   (4) Nothing in this rule will ~~[herein contained shall be deemed to]~~  
2 authorize or permit any transactions which, in the case of a noncontrolled insurer, would  
3 be otherwise contrary to law.

4                   (5) The commissioner, in reviewing transactions ~~[hereunder]~~, must ~~[shall]~~  
5 consider whether the transactions comply with the standards set forth in subsection (c)  
6 of this section and whether they may adversely affect the interest of policyholders. Any  
7 disapproval by the commissioner of any of the ~~[such]~~ transactions must ~~[shall]~~ set forth  
8 the specific reasons for the ~~[such]~~ disapproval.

9                   (6) The approval of any transaction under this subsection is ~~[shall be]~~  
10 deemed an amendment under §7.203(e) of this title (relating to Registration of Insurers)  
11 to an insurer's registration statement without further filing.

12               (b) Transactions. An insurer required to request ~~[Requests for]~~ approval of  
13 transactions pursuant to subsection (a)(1) of this section and give notices of proposed  
14 transactions pursuant to subsection (a)(2) of this section, must ~~[shall]~~ furnish the  
15 required information on Form D (relating to Prior Notice of a Transaction) ~~[be~~  
16 ~~accompanied by descriptions of the essential features of such transactions which are~~  
17 ~~reasonably adequate to permit proper evaluation thereof by the commissioner]~~ including  
18 the applicable filing fee provided for in §7.1301(d)(23) of this title (relating to Regulatory  
19 Fees). The ~~[Such]~~ descriptions must ~~[shall]~~ in all cases include at least the following:  
20 the nature and purpose of the transaction; the nature and amounts of any payments or  
21 transfers of assets between the parties; the identities of all parties to the ~~[such]~~  
22 transactions; whether any officers or directors of a party are pecuniarily interested

1 ~~[therein]~~, and copies of any proposed contracts, agreements, or memoranda of  
2 understanding between the parties relating to the transaction along with sufficient  
3 competent documentation evidencing compliance with the standards specified in the  
4 Insurance Code ~~[Act]~~, §823.101 ~~[\$4(a)]~~, and evidencing that the transaction will not  
5 adversely affect the interest of policyholders. Proposed contracts, agreements, or  
6 memoranda of understanding must ~~[shall]~~ provide for settlement within 90 days. No  
7 ~~[such]~~ request or notice is ~~[shall be]~~ deemed filed with the commissioner until the date  
8 all of the ~~[such]~~ material has been provided.

9 (c) Transactions with affiliates and others. Material transactions by registered  
10 insurers with their holding companies, subsidiaries, or affiliates are subject to the  
11 standards specified in the Act, §823.101 ~~[\$4(a)]~~.

12 (d) Extraordinary dividends and other distributions.

13 (1) An ~~[No]~~ insurer subject to registration under §7.203(a) of this title  
14 ~~[(relating to Registration of Insurers)]~~ must not ~~[shall]~~ pay any extraordinary dividend or  
15 make any other extraordinary distribution to its shareholders until:

16 (A) 30 days after the commissioner has received written notice in  
17 accord ~~[accordance]~~ with §7.213 ~~[\$7.212]~~ of this title (relating to Form E ~~[D]~~) of the  
18 declaration ~~[thereof]~~, including the applicable filing fee pursuant to §7.1301(d)(23) of this  
19 title, provided ~~[and]~~ the commissioner has not ~~[within such period]~~ disapproved the  
20 ~~[such]~~ payment; or

21 (B) the commissioner approves ~~[shall have approved]~~ the ~~[such]~~  
22 payment within the ~~[such]~~ 30-day period. The written notice required under this

paragraph will ~~[shall]~~ be deemed filed with the commissioner only when all material sufficient to constitute a complete filing, including documentation to support each of the standards set forth in the Act, §823.008 ~~[\$4(b)]~~, and the payment of any required filing fee pursuant to §7.1301(d)(23) of this title have been provided.

(2) For purposes of these sections an extraordinary dividend or distribution includes any dividend or distribution of cash or other property, whose fair market value together with that of other dividends or distributions made within the preceding 12 months exceeds the greater of:

(A) 10 percent ~~[10%]~~ (20 percent ~~[20%]~~ if the ~~[such]~~ insurer is a title insurer) of the ~~[such]~~ insurer's surplus as regards policyholders as of the 31st day of December next preceding; or

(B) the net gain from operations of the ~~[such]~~ insurer, if the ~~[such]~~ insurer is a life or title insurer, or the net income, if the ~~[such]~~ insurer is not a life or title insurer, for the 12-month period ending the 31st day of December next preceding;

(C) an extraordinary dividend or distribution must ~~[shall]~~ not include pro rata distributions of any class of an insurer's own securities;

(D) in determining the 12-month cumulative amount for dividends or distributions, the calculation must ~~[shall]~~ be based on the declaration date(s) of the ~~[such]~~ dividends or distributions.

(3) Notwithstanding any other provision of law, an insurer may declare an extraordinary dividend or distribution under the conditions specified in the Act, §823.107 ~~[\$4(c)(3)]~~.

(e) Adequacy of surplus. For the purposes of these sections, in determining whether an insurer's surplus as regards policyholders is reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, the factors specified in the Act, §823.008 [~~§4(b)~~], among others, must [~~shall~~] be considered.

**§7.205. Acquisition or Divestiture Statements--Filing Requirements.**

(a) Filing Requirements. Filing and other regulatory requirements for acquisitions, [~~or~~] changes of control, or divestitures and certain other matters as specified in the Act, §823.153 and §823.154 [~~§5(a)~~], are governed by the Act, §823.153 and §823.154 [~~§5(a)~~]. For purposes of this subsection, a domestic insurer as defined in the Act, §823.153 [~~§5(a)(2)~~], [~~shall~~] includes [~~include~~] any person controlling a domestic insurer, including a commercially domiciled insurer, unless the [~~such~~] person is, either directly or through its affiliates, primarily engaged in business other than the business of insurance. A change or substitution of an attorney-in-fact of a Lloyds' or reciprocal or interinsurance exchange is subject to the Act, §823.154 [~~§5. An acquisition of control of a domestic insurer is subject to the Act, §5, regardless of the domestic insurer's exemption from regulation under the Act, §2(r).~~]. A failure to file complete and accurate information in all material respects is grounds for a denial by the commissioner under the Act, §823.157 [~~§5(c)~~].

(b) Form and content of statement. The statement required by subsection (a) of this section (elsewhere referred to as acquisition or divestiture statement) must [~~shall~~] be made in accord [~~accordance~~] with §7.209 of this title (relating to Form A), the



1 acquisition or divestiture statement. The acquiring party must ~~[shall]~~ provide additional  
2 financial information in ~~[the]~~ form or substance as required by the commissioner which  
3 is material to the finding required by the Act, §823.157 ~~[\$5(e)(1)(iii)]~~. Any financial  
4 information required under the Act, §823.203 ~~[\$5(b)(3)]~~, may be waived by the  
5 commissioner if the ~~[such]~~ information is not deemed material. No statement required  
6 by subsection (a) of this section will ~~[shall]~~ be deemed filed with the commissioner until  
7 ~~[on]~~ the date all ~~[such]~~ material required and sufficient to constitute a full statement has  
8 been provided.

9 (c) Partnerships and corporate filings. If the person required to file the  
10 acquisition statement is a partnership, limited partnership, syndicate, or other group, the  
11 commissioner may require that the information called for by §7.209 of this title ~~[(relating~~  
12 ~~to Form A)]~~ be given with respect to each partner of the ~~[such]~~ partnership or limited  
13 partnership, each member of the ~~[such]~~ syndicate or group, and each person who  
14 controls the ~~[such]~~ partner or member. If any ~~[such]~~ partner, member, or person is a  
15 corporation or if the person required to file the statement referred to in subsection (a) of  
16 this section is a corporation, the commissioner may require that the information called  
17 for by §7.209 be given with respect to the ~~[such]~~ corporation and by each executive  
18 officer and director of the ~~[such]~~ corporation, and each person who is directly or  
19 indirectly the beneficial owner of more than 10 percent ~~[40%]~~ of the outstanding voting  
20 securities of the ~~[such]~~ corporation.

21 (d) Amendment. If any material change occurs in the facts set forth in the  
22 acquisition or divestiture statement filed with the commissioner, an amendment setting

1    forth the ~~[such]~~ change, together with copies of all documents and other material  
2    relevant to the ~~[such]~~ change, must ~~[shall]~~ be filed with the commissioner and sent to  
3    the domestic insurer within two business days after the person learns of the ~~[such]~~  
4    change.

5            (e) Acquisition or divestiture of a domestic insurer as defined in subsection (a) of  
6    this section.

7            (1) If the person being acquired or divested is a domestic insurer solely  
8    because of the provisions of subsection (a) of this section, the name of the domestic  
9    insurer on the cover page should be indicated as follows: "ABC Insurance Company, a  
10   subsidiary of XYZ Holding Company."

11            (2) Where a domestic insurer as defined in subsection (a) of this section  
12   is being acquired or divested, references to "the insurer" contained in §7.209 of this title  
13   [~~(relating to Form A)~~ ~~shall~~] refer to both the domestic subsidiary insurer and the person  
14   being acquired or divested.

15            (f) Approval or denial by commissioner; hearings. All mergers, acquisitions, ~~or~~  
16   changes of control, or divestitures and other matters ~~[as]~~ specified in the Act, §823.154  
17   ~~§5(a)~~, and mergers contemplated by the Insurance Code ~~[Article 21.28-A, §1]~~, are  
18   subject to the Act, §823.157 ~~§5(e)~~. The acquiring or divesting party has ~~[shall have]~~  
19   the burden of providing sufficient competent evidence for the commissioner to make the  
20   determinations required under the Act, §823.157 ~~§5(e)(1)~~.

21            (g) Notices; payment of expenses.

(1) Notices, payments of expenses, and other matters ~~[as]~~ specified in the Act, §823.156 ~~§5(d)~~, must ~~[shall]~~ comport with that subsection.

(2) All provisions of the Insurance Code Chapter 823 ~~[, Article 21.49-1]~~, and ~~[of]~~ this subchapter relating to the timely mailing of a copy of the acquisition or divestiture statement, and relating to the timely mailing of a copy of a ~~[the]~~ notice of hearing ~~[thereon]~~ before the commissioner to an insurer, may be waived by the written unanimous consent of the insurer and the person or persons filing such acquisition or divestiture statement. The ~~[Such]~~ written waiver must ~~[shall]~~ acknowledge receipt of a copy of the acquisition or divestiture statement.

(h) Exemptions. The provisions of this section do ~~[shall]~~ not apply to transactions and other matters exempted under the Act, §823.164 ~~§5(e)~~. A restructuring within an insurance holding company system which results in a direct or indirect change in control of a domestic insurer is subject to the Act, §823.164(h)(1) ~~§5(e)(3)(i)~~. An acquisition of a voting security of a domestic insurer specified in the Act, §823.164(f)(1) and (2) ~~§5(e)(4) and (6)~~, must ~~[shall]~~ be disclosed by amendment to the registration statement as provided in §7.203(f) of this title (relating to Registration of Insurers). ~~[The written application for exemption in the acquisition of a voting security specified in the Act, §5(e)(5), shall be made in accordance with §7.213 of this title (relating to Form E), the exemption statement. The approval of an application under §7.213 shall be deemed an amendment under §7.203 to an insurer's registration statement without further filing.]~~ An acquisition of a voting security of a domestic insurer by a security holder controlling, directly and indirectly, 50 percent ~~[50%]~~ of the then

1 issued and outstanding voting securities of the ~~[such]~~ domestic insurer, is ~~[shall be]~~  
2 subject to the Act, §823.164(g) ~~[\$5(e)(5)]~~. An acquisition of a voting security of an  
3 insurer domiciled in this state which is not subject to the Act, §823.154 ~~[\$5(a)(1)]~~, by  
4 virtue of the Act, §823.153 ~~[\$5(a)(2)]~~, is ~~[shall be]~~ subject to the Act, §823.164(h)(2)  
5 ~~[\$5(e)(3)(ii)]~~.

6 (i) Retention of control. For certain matters relating to retention of control and  
7 certain violations of the Act, see the Act, §823.163.

8 ~~[(1) For certain matters relating to certain violations of the Act, see the~~  
9 ~~Act, §5(f)(1).]~~

10 ~~[(2) For certain matters relating to retention of control, see the Act, §5(f)~~  
11 ~~(2).]~~

12 (j) Duty of insurer. Authorized insurers must ~~[are under a duty to]~~ notify the  
13 commissioner of control of, or of actions to acquire control of, an insurer as required by  
14 the Act, §823.161 ~~[\$5(g)]~~.

15 (k) Preliminary filings. Any acquisition or divestiture statement may~~[, at the~~  
16 ~~discretion of the person or persons filing the same,]~~ be preliminarily filed with the  
17 commissioner to obtain ~~[for the purpose of obtaining]~~ a preliminary review by the  
18 commissioner. It ~~[Any such filing]~~ must ~~[shall]~~ be clearly marked or designated as a  
19 preliminary filing. The ~~[Such]~~ preliminary filing must ~~[shall]~~ not invoke the requirements  
20 of this title ~~[subchapter]~~ or the Insurance Code Chapter 823 ~~[, Article 21.49-4]~~, requiring  
21 that notice ~~[thereof]~~ be given to the ~~[such]~~ affected insurer involved. The ~~[Such]~~  
22 preliminary filing will ~~[shall]~~ have no legal effect and does ~~[shall]~~ not constitute

1 compliance with the Insurance Code Chapter 823 [~~Article 21.49-1~~], and this  
2 subchapter. The commissioner is not [~~shall not be~~] bound by the preliminary review nor  
3 deemed to have in any manner approved the [~~such~~] filing.

4 (l) Violations. The following are [~~shall be~~] violations of this section:

5 (1) (No change.)

6 (2) the effectuation of, or any attempt to effectuate, an acquisition, or  
7 change of control of, divestiture, or merger with, a domestic insurer unless the  
8 commissioner has approved it [~~given his approval thereto~~].

9 (m) and (n) (No change.)

10 (o) Producer-controlled property and casualty insurer.

11 (1) For purposes of this section, a controlling producer, as defined in  
12 §7.202(a)(8) of this title (relating to Definitions), is subject to the filing requirements of  
13 the Act, [~~§5~~], in addition to the following requirements.

14 (A) No acquisition of an insurer by a controlling producer in another  
15 state may be approved by the commissioner pursuant to the Act, §823.157 [~~§5(c)(1)~~],  
16 unless the acquiring party demonstrates, to the satisfaction of the commissioner,  
17 compliance with the requirements contained in subparagraph (B) of this paragraph.

18 (B) Approval of the acquisition of an insurer by a controlling  
19 producer in another state may not be approved unless the following requirements are  
20 met.

21 (i) Required contract provisions. A controlled insurer must  
22 [~~shall~~] not accept business from a controlling producer and a controlling producer must

1 ~~[shall]~~ not place business with a controlled insurer unless there is a written contract  
2 between the controlling producer and the controlled insurer specifying the  
3 responsibilities of each party, which contract has been approved by the board of  
4 directors of the controlled insurer and which contains the following:

5 (I) a provision that the controlled insurer may  
6 terminate the contract for cause, upon written notice to the controlling producer. The  
7 controlled insurer must ~~[shall]~~ suspend the authority of the controlling producer to write  
8 business during the pendency of any dispute regarding the cause for the termination;

9 (II) a provision that the controlling producer ~~[shall]~~  
10 render accounts to the controlled insurer detailing all material transactions, including  
11 information necessary to support all commissions, charges, and other fees received by,  
12 or owing to, the controlling producer;

13 (III) a provision that the controlling producer ~~[shall]~~  
14 remit all funds due under the terms of the contract to the controlled insurer on at least a  
15 monthly basis. The due date must ~~[shall]~~ be fixed so that the premiums or installments  
16 ~~[thereof]~~ collected are ~~[shall be]~~ remitted no later than 90 days after the effective date of  
17 any policy placed with the controlled insurer under this contract;

18 (IV) a provision that all funds collected for the  
19 controlled insurer's account must ~~[shall]~~ be held by the controlling producer in a fiduciary  
20 capacity, in one or more appropriately identified bank accounts in banks that are  
21 members of the Federal Reserve System;

(V) a provision that the controlling producer ~~[shall]~~  
maintain separately identifiable records of business written for the controlled insurer;

(VI) a provision that the contract ~~[shall]~~ not be  
assigned in whole or in part by the controlling producer;

(VII) a provision that the controlled insurer ~~[shall]~~  
provide the controlling producer with its underwriting standards, rules, procedures,  
manuals setting forth the rates to be charged, and the conditions for the acceptance or  
rejection of risks. The controlling producer must ~~[shall]~~ adhere to the standards, rules,  
procedures, rates, and conditions. The standards, rules, procedures, rates, and  
conditions must ~~[shall]~~ be the same as those applicable to comparable business placed  
with the controlled insurer by a producer other than the controlling producer;

(VIII) a provision establishing the rate and terms of  
the controlling producer's commissions, charges, or other fees and the purposes for  
those charges or fees. The rates of the commissions, charges, and other fees must  
~~[shall]~~ be no greater than those applicable to comparable business placed with the  
controlled insurer by producers other than controlling producers. For purposes of this  
subclause and subclause (VII) of this clause, examples of "comparable business"  
include the same lines of insurance, same kinds of insurance, same kinds of risks,  
similar policy limits, and similar quality of business;

(IX) a provision that, if the contract provides that the  
controlling producer, on insurance business placed with the insurer, is to be  
compensated contingent upon the insurer's profits on that business, ~~[then]~~ the ~~[such]~~

1 compensation must ~~[shall]~~ not be determined and paid until at least five years after the  
2 premiums on liability insurance are earned and at least one year after the premiums are  
3 earned on any other insurance. No ~~[In no event shall the]~~ commissions may be paid  
4 until the adequacy of the controlled insurer's reserves on remaining claims has been  
5 independently verified;

6 (X) a provision limiting the controlling producer's  
7 writings in relation to the controlled insurer's surplus and total writings. The controlled  
8 insurer may establish a different limit for each line or subline of business. The  
9 controlled insurer must ~~[shall]~~ notify the controlling producer when the applicable limit is  
10 approached and must ~~[shall]~~ not accept business from the controlling producer if the  
11 limit is reached. The controlling producer must ~~[shall]~~ not place business with the  
12 controlled insurer if it has been notified by the controlled insurer that the limit has been  
13 reached; and

14 (XI) a provision that the controlling producer may  
15 negotiate but must ~~[shall]~~ not bind reinsurance on behalf of the controlled insurer on  
16 business the controlling producer places with the controlled insurer, except that the  
17 controlling producer may bind facultative reinsurance contracts pursuant to obligatory  
18 facultative agreements if the contract with the controlled insurer contains underwriting  
19 guidelines including, for both reinsurance assumed and ceded, a list of reinsurers with  
20 which the ~~[such]~~ automatic agreements are in effect, the coverages and amounts or  
21 percentages that may be reinsured, and commission schedules.



1 (ii) Audit committee. Every controlled insurer must ~~[shall]~~  
2 have an audit committee of the board of directors composed of independent directors.  
3 The audit committee must ~~[shall]~~ annually meet with management, the controlled  
4 insurer's independent certified public accountants, and an independent casualty actuary  
5 or other independent loss reserve specialist acceptable to the commissioner to review  
6 the adequacy of the controlled insurer's loss reserves.

7 (iii) Reporting requirements.

8 (I) In addition to any other required loss reserve  
9 certification, the controlled insurer must ~~[shall]~~ annually, on April 1 of each year, file with  
10 the commissioner an opinion of an independent casualty actuary, or ~~[such]~~ other  
11 independent loss reserve specialist acceptable to the commissioner, reporting loss  
12 ratios for each line or subline of business written and attesting to the adequacy of loss  
13 reserves established for losses incurred and outstanding as of year-end, including  
14 incurred but not reported losses, on business placed by the controlling producer.

15 (II) The controlled insurer must ~~[shall]~~ annually report  
16 to the commissioner in its registration statement filed pursuant to §7.203(g) of this title  
17 ~~[(relating Annual Amendment)]~~ the amount of commissions paid to the controlling  
18 producer, the percentage such amount represents of the net premium written, and  
19 comparable amounts and percentages paid to noncontrolling producers for placements  
20 of the same kinds of insurance.

21 (iv) Disclosure requirements. The controlling producer, prior  
22 to the effective date of the policy, must ~~[shall]~~ deliver written notice to the prospective

insured disclosing the relationship between the controlling producer and the controlled insurer, except that, if the business is placed through a subproducer who is not a controlling producer, the controlling producer must ~~[shall]~~ retain in the ~~[his]~~ records a signed commitment from the subproducer that the subproducer is aware of the relationship between the controlled insurer and the controlling producer and that the subproducer has notified or will notify the insured.

(2) (No change.)

(p) A producer controlled insurer is subject to all the provisions of the Act absent a determination that the laws of its domiciliary state are substantially similar as provided by the Act, §823.014 ~~§48~~.

**§7.206. Supervisory College Information Sharing and Confidentiality of Information Shared.**

(a) Statutory authority. The commissioner may enter into information sharing agreements with other state, federal, and international regulatory agencies, including the International Association of Insurance Supervisors multilateral memorandum of understanding, pursuant to the Insurance Code §823.0145 and §823.011. Information provided to other state, federal, and international regulatory agencies by the commissioner is owned by the commissioner and may only be used by the recipient as directed by the commissioner. Information received by the commissioner from other state, federal, and international regulatory agencies may be used only as permitted by those agencies and required by law.

1        (b) Consideration of request for information. The commissioner will consider a  
2 request for information under an information sharing agreement on a case by case  
3 basis and consider factors that may prohibit the sharing of information including ongoing  
4 criminal or regulatory proceedings against an insurer that is part of an insurance holding  
5 company system with international operations, data protection, state and federal privacy  
6 laws, use of the requested information for a purpose not directly related to the fulfillment  
7 of supervisory functions, costs associated with the request, and national interests.

8        (c) Requirements for requests for information. A request for information must be  
9 submitted to the commissioner in writing and must contain:

- 10            (1) the legal authority for the request for information;  
11            (2) a valid legal purpose for the request for information;  
12            (3) an affirmation that information received will only be used for  
13 supervisory purposes and will not be used for purposes other than those stated in the  
14 written request;  
15            (4) an affirmation that information received pursuant to the request will be  
16 maintained strictly confidential and will not be disclosed by the requestor to any person  
17 without the prior written consent of the commissioner;  
18            (5) an affirmation that the requestor of the information will notify the  
19 commissioner, in writing, of a request or subpoena for any information that is provided  
20 to the requestor by the commissioner and of any inadvertent release of information that  
21 is provided to the requestor by the commissioner within seven business days of the  
22 requestor's notice of the request or release of information; and

1                   (6) consent for an insurer to intervene in any judicial or administrative  
2 action in which the requestor may be required to disclose confidential information about  
3 an insurer which has been provided by the commissioner to the requestor.

4                   (d) Confidentiality of information. Information that is provided to or received from  
5 other state, federal, and international regulatory agencies, including information  
6 provided to or received under the International Association of Insurance Supervisors  
7 multilateral memorandum of understanding, is confidential and privileged for all  
8 purposes, and is not subject to disclosure pursuant to Chapter 552 of the Government  
9 Code, a response to a subpoena, discovery, or admissibility in evidence in a civil action,  
10 or other applicable state or federal law.

11  
12 **§7.207. Intentionally Left Blank.**

13  
14 **§7.208. Intentionally Left Blank.**

15  
16 **§7.209. Form A.**

17                   (a) and (b) (No change.)

18                   (c) Identity and background of the applicant.

19                         (1) (No Change.)

20                         (2) If the applicant is not an individual, state the nature of its business  
21 operations for the past five years or for such lesser period as the [~~such~~] person and any

predecessors ~~[thereof shall]~~ have been in existence and fully describe any business  
~~[which]~~ the ~~[such]~~ person and any of its affiliates intend to commence.

(3) Furnish a chart or listing clearly identifying the interrelationships  
between the applicant and all affiliates of the applicant. Indicate in the ~~[such]~~ chart or  
listing the percentage of voting securities of each ~~[such]~~ person ~~[which is]~~ controlled by  
the applicant or by any other ~~[such]~~ person. If control of any person is maintained other  
than by the ownership or control of voting securities, indicate the basis of ~~[such]~~ control.  
As to each person specified in the ~~[such]~~ chart or listing, indicate the type of  
organization (e.g., corporation, trust, partnership) and the state or other jurisdiction of  
domicile. If court proceedings looking toward a reorganization or liquidation are pending  
with respect to any ~~[such]~~ person, indicate which person, and set forth the title of the  
court, nature of proceedings, and the date when commenced.

(d) Identity and background of individuals associated with the applicant.

(1) Furnish biographical data for the applicant if the ~~[such]~~ person is an  
individual, or for all persons who are directors, executive officers, or owners of 10  
percent ~~[10%]~~ or more of the voting securities of the applicant if the applicant is not an  
individual, with the ~~[such]~~ biographical data in the form of the biographical affidavit form  
published by and available from the National Association of Insurance Commissioners  
~~[adopted by reference under §7.201(a)(1) of this title (relating to Forms Filings). Copies~~  
~~of this form are available from Financial Analysis and Examinations, Mail Code 303-1A,~~  
~~Texas Department of Insurance, P.O. Box 149099, 333 Guadalupe, Austin, Texas~~  
~~78714-9099].~~

(2) The applicant if the ~~[such]~~ person is an individual, or for persons who are the chair ~~[chairman]~~ of the board, chief executive officer, president, chief financial officer, treasurer, and controller of the applicant if the applicant is not an individual, must ~~[shall]~~ comply with the requirements of Chapter 1, Subchapter D of this title (relating to Effect of Criminal Conduct).

(e) Nature, source, and amount of funds or other consideration.

(1) Describe the nature, source, and amount of funds or other consideration used or to be used in effecting the merger or other acquisition of control. If any part is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding, or trading securities, furnish a description of the transaction, the names of the parties, the relationship, if any, between the borrower and the lender, the amounts borrowed or to be borrowed, and copies of all agreements, promissory notes, and security arrangements. ~~[State the name and address of the applicant seeking to acquire control over the insurer.]~~

(2) Explain the criteria used in determining the nature and amount of the consideration.

(3) ~~[(2)]~~ If the source of the consideration is a loan made in the lender's ordinary course of business and if the applicant wishes the identity of the lender to remain confidential, he or she must specifically request that the identity be kept confidential. ~~[provided by a commercial lender in the ordinary course of business and if the applicant wishes the identity to remain confidential, he must specifically request that~~

1 ~~the identity be kept confidential. When confidentiality is requested such identity shall be~~  
2 ~~provided by a separate instrument filed with, but not forming a part of, the acquisition~~  
3 ~~statement.]~~

4 ~~[(3) If the consideration is to consist in whole or in part of the insurance~~  
5 ~~business and assets of the insurer or of a person controlled by the insurer, state the~~  
6 ~~value thereof and how such value was arrived at.]~~

7 (f) Future plans for insurer.

8 (1) Provide a business plan which describes any plans or proposals which  
9 the applicant may have or may contemplate making to cause the insurer to pay  
10 dividends or make other distributions, [tø] liquidate the [such] insurer, [tø] sell any of its  
11 assets, [tø] merge or consolidate it with any person or persons, [tø] make any other  
12 material change in its business operations or corporate structure or management, or [tø]  
13 cause the insurer to enter into material agreements, arrangements, or transactions of  
14 any kind with any party, and describe any financial or employment guarantees given to  
15 present and contemplated management.

16 (2) (No change.)

17 (3) Provide:

18 (A) an affirmative statement of applicant's and the domestic  
19 insurer's compliance with Chapter 22 of this title (relating to Privacy); and[7]

20 (B) if applicant proposes revisions to the domestic insurer's current  
21 privacy policy, the proposed revised privacy policy along with any revised notices  
22 required pursuant to §22.12 of this [the] title [~~(relating to Revised Privacy Notices)~~] and

1 any other notices or authorization requests and forms ~~[that]~~ applicant will be required to  
2 provide to maintain compliance with Chapter 22 of this title.

3 (4) For the domestic insurer, provide the full name of each individual  
4 proposed to be an executive officer or director of the domestic insurer and the full name  
5 of each individual who will be responsible for major areas of operations of the domestic  
6 insurer, including, but not limited to, supervision of agents, underwriting, advertising,  
7 production of business through agents and through reinsurance, policyholder services,  
8 premium accounting, claims processing and litigation, reinsurance cessions,  
9 investments, and financial accounting and reporting. For each ~~[such]~~ position, evidence  
10 of the ~~[such]~~ individual's ability and experience to perform same by providing  
11 biographical data in the form of the biographical affidavit form published by and  
12 available from the National Association of Insurance Commissioners ~~[adopted by~~  
13 ~~reference under §7.201(a)(1) of this title]~~.

14 (5) (No change.)

15 (g) Voting securities to be acquired. State the number of shares of the insurer's  
16 voting securities and the amount or number of shares convertible into voting securities  
17 which the applicant, its affiliates, and any person listed in subsection (d) of this section  
18 plan to acquire, and the terms of the offer, request, invitation, agreement, or acquisition,  
19 and a statement of the method by which the fairness of the proposal was determined.

20 (h) Ownership of voting securities. State the amount of each class of any voting  
21 security of the insurer which is ~~[legally, directly, indirectly, or]~~ beneficially owned or  
22 concerning ~~[of]~~ which there is ~~[the acquiring party or any of its affiliates or any person~~



1 ~~listed in subsection (d) of this section has~~ a right to acquire ~~[legal, direct, indirect, or]~~  
2 beneficial ownership by the applicant, its affiliates, or any person listed in subsection (d)  
3 of this section.

4 (i) Contracts, arrangements, or understandings with respect to voting securities  
5 of the insurer. Give a full description of any contracts, arrangements, or understandings  
6 with respect to any voting security of the insurer in which the applicant, its affiliates,  
7 ~~[Provide a copy of any written, or a confirmed description of any oral, agreements,~~  
8 ~~arrangements, or understandings with respect to any voting security of the insurer in~~  
9 ~~which the applicant, any of its affiliates,~~ or any persons listed in subsection (d) of this  
10 section is involved, including, but not limited ~~[without limitation any such agreement,~~  
11 ~~arrangement, or understanding relating]~~ to, ~~[the]~~ transfer of any of the ~~[voting]~~ securities,  
12 joint ventures, loan or option arrangements ~~[agreements]~~, puts or calls, guarantees of  
13 loans, guarantees against loss, guarantees of profits, division of losses or profits, or the  
14 giving or withholding of proxies. The description must identify the persons with whom  
15 the contracts, arrangements, or understandings have been made.

16 (j) Recent purchases of voting securities. Describe any purchases of any voting  
17 securities of the insurer by the applicant, any of its affiliates, or any person listed in  
18 subsection (d) of this section during the 12 calendar months preceding the filing of this  
19 statement. Include in the ~~[such]~~ description the dates of purchase, ~~[the]~~ names of the  
20 purchasers, and ~~[the]~~ consideration paid or agreed to be paid ~~[therefor]~~. State whether  
21 any ~~[such]~~ shares so purchased are hypothecated.

22 (k) (No change.)

1 (l) Agreements with broker-dealers. Provide a copy of any written, or a  
2 confirmed description of any oral, agreement, arrangement, or understanding made with  
3 any broker-dealer as to the solicitation of voting securities of the insurer for tender, and  
4 the amount of any fees, commissions, or other compensation to be paid to broker-  
5 dealers ~~[with regard thereto]~~.

6 (m) Financial statements and exhibits.

7 (1) Financial statements, ~~and~~ exhibits, and financial projections on a  
8 quarterly basis of the insurer and the applicant must ~~[shall]~~ be attached to this statement  
9 as an appendix, but list under this subsection the financial statements and exhibits so  
10 attached. Projections of the domestic insurer and the applicant must be for a period  
11 equal to the greater of three years or the length of time of debt service required by  
12 applicant in its acquisition of control and any additional document or papers required by  
13 regulation.

14 (2) The financial statements must ~~[shall]~~ include the annual financial  
15 statements of the persons identified in subsection (c)(3) of this section for the preceding  
16 three fiscal years (or for such lesser period as the ~~[such]~~ applicant and its affiliates and  
17 any predecessors ~~[thereof shall]~~ have been in existence), and similar unaudited  
18 financial information as of a date not earlier than 120 days prior to the filing of the  
19 statement, accompanied by affidavit or certification of the chief financial officer of the  
20 applicant that the ~~[such]~~ unaudited financial statement is true and correct, as of its date,  
21 and that there has been no material change in financial condition, as defined by the Act,  
22 ~~§3~~, from the date of the financial statement to the date of the affidavit or certification.

1 The [~~Such~~] statements may be prepared on either an individual basis, or, unless the  
2 commissioner otherwise requires, on a consolidated basis if the [~~such~~] consolidated  
3 statements are prepared in the usual course of business.

4 (3) Unless exempted by the commissioner, the annual financial statements of  
5 the applicant must [~~shall~~] be made in accord [~~accordance~~] with generally accepted  
6 auditing standards and accompanied by the certificate of an independent certified public  
7 accountant [~~to the effect~~] that the [~~such~~] statements present fairly the financial position  
8 of the applicant and the results of its operations for the year then ended, in conformity  
9 with generally accepted accounting principles or with requirements of insurance or other  
10 accounting principles prescribed or permitted under law. If the [~~such~~] certificate is not  
11 available, then the [~~such~~] financial statement must [~~shall~~] be sworn to by the applicant  
12 as correctly reflecting its financial condition, and in that [~~such~~] case, the commissioner  
13 [~~of insurance~~] at the commissioner's discretion may require the [~~such~~] financial  
14 statement to be certified by an independent public accountant. If the applicant is an  
15 insurer which is actively engaged in the business of insurance and licensed to do  
16 business in this state, it may provide financial statements which conform to the annual  
17 statements of the insurer filed with the insurance department of the insurer's domiciliary  
18 state and which are in accordance with the requirements of insurance or other  
19 accounting principles prescribed or permitted under the law and regulations of the  
20 domiciliary state.

21 (A) If the applicant is an individual person, the [~~such~~] person must  
22 [~~shall~~] provide a reviewed financial statement accompanied by the certificate of an

1 independent public accountant that he or she is not aware of any material modifications  
2 that should be made to the accompanying financial statement ~~[in order]~~ for it to be in  
3 conformity with generally accepted accounting principles and must ~~[shall]~~ provide a  
4 balance sheet as of a date not earlier than 120 days prior to the filing of the statement  
5 and balance sheets for the second and third fiscal years preceding the filing of the  
6 statement accompanied by affidavit or certification that each balance sheet is true and  
7 correct as of its date.

8           (4) ~~[(3)]~~ File as exhibits copies of all tender offers for, requests or  
9 invitations for, tenders of, exchange offers for, and agreements to acquire or exchange  
10 any voting securities of the insurer and (if distributed) of additional soliciting material  
11 ~~[relating thereto]~~; and proposed employment, consultation, advisory, or management  
12 contracts concerning the insurer ~~[- budget projections of the domestic insurer and the~~  
13 ~~applicant for a period equal to the greater of three years or the succeeding length of~~  
14 ~~time of debt service required by applicant in its acquisition of control; and any additional~~  
15 ~~document or papers required by regulation].~~

16           (5) ~~[(4)]~~ In addition to the other material required to be filed by this  
17 section, a person ~~[as]~~ described in §7.205(a) of this title (relating to Acquisition or  
18 Divestiture Statements--Filing Requirements) must ~~[shall]~~ file, as an exhibit, annual  
19 reports to the stockholders of the insurer and the applicant for the last two fiscal years.  
20 ~~[-]~~ These ~~[these]~~ reports are for review of the department ~~[Texas Department of~~  
21 ~~Insurance]~~, and are not a part of the material required to be submitted under the Act

1 ~~§5(b)(12)~~. However, the materials will ~~[shall]~~ be open for public inspection at the  
2 offices of the Texas Department of Insurance during the pendency of the application.

3 (n) Enterprise risk management. Applicant agrees to provide, to the best of its  
4 knowledge and belief, the information required by Form F pursuant to the Insurance  
5 Code §823.0595 within 15 days after the end of the month in which the acquisition of  
6 control occurs.

7 (o) Notice regarding divestiture of control pursuant to the Insurance Code  
8 §823.154.

9 **Figure: 28 TAC §7.209(o):**

10 \_\_\_\_\_ name of domestic insurer by \_\_\_\_\_ name  
11 of divesting person (applicant). Filed with the Texas Department of Insurance, date:  
12 \_\_\_\_\_, 20\_\_.

13 Name, title, address, and telephone number of individual to whom notices and  
14 correspondence concerning this statement should be addressed:

15 \_\_\_\_\_  
16 \_\_\_\_\_  
17 \_\_\_\_\_.

18 (1) Provide the name, title, address, e-mail address and telephone  
19 number of the individual to whom notices and correspondence concerning this  
20 statement should be addressed.

(2) Provide notice that applicant is divesting control of the above named insurance company(ies) and describe how control is being divested and include the percentage of control being divested.

(3) State the name and address of the recipient(s) of the divestiture of control.

(4) Provide copies of any sales contracts and an organizational chart before and after the divestiture of control.

(5) Describe and state the name of the person in control of the insurer before and after the divestiture of control.

(p) ~~(n)~~ Signature and certification. Signature and certification of the following form:

**Figure: 28 TAC §7.209(p) ~~§7.209(n)~~:**

SIGNATURE

Pursuant to the requirements of Chapter 823 ~~[Section 5 of Article 21.49-1,]~~ Texas Insurance Code,

\_\_\_\_\_ has caused this application to be ~~duly~~ signed

Name of Applicant

on its behalf in the City of \_\_\_\_\_ and State of \_\_\_\_\_, on

\_\_\_\_\_, 20\_\_ .

1

2

\_\_\_\_\_

3

Name of Applicant

4

(Seal)

5

By: \_\_\_\_\_

6

(Name)(Title)

7

Attest:

8

\_\_\_\_\_

9

(Signature of Officer)

10

\_\_\_\_\_

11

(Title)

12

## CERTIFICATION

13

THE STATE OF \_\_\_\_\_

14

COUNTY OF \_\_\_\_\_

15

Before me, the undersigned authority, on this day personally appeared

16

\_\_\_\_\_ known to me to be the

17

\_\_\_\_\_ of \_\_\_\_\_,

(Title) (Name of Applicant)

who, after being placed on his or her oath, stated that he or she has read the preceding application and that the answers, exhibits and attachments forming it are true and correct as to any factual statements ~~[contained therein]~~.

\_\_\_\_\_

(Signature)

Sworn to and subscribed before me on \_\_\_\_\_, 20\_\_ , to certify which witness my hand and seal of office.

\_\_\_\_\_

Notary Public in and for

(Seal)

\_\_\_\_\_, County, \_\_\_\_\_

**§7.210. Form B.**

(a) and (b) (No change.)

(c) Organizational chart. Furnish a chart or listing clearly presenting the identities of and interrelationships among all affiliated persons within the insurance holding company system, including all affiliated persons as defined in §7.202(a)(2) of this title (relating to Definitions). The chart or listing should show the percentage of



1 each class of voting securities of each affiliate which is owned, directly or indirectly, by  
2 another affiliate. If control of any person within the system is maintained other than by  
3 the ownership or control of voting securities, indicate the basis of the [~~such~~] control. As  
4 to each person specified in the [~~such~~] chart or listing, indicate the type of organization  
5 (e.g., corporation, trust, partnership) and the state or other jurisdiction of domicile.

6 (d) The ultimate controlling person. As to the ultimate controlling person (that  
7 person which is not controlled by another person) in the insurance holding company  
8 system, furnish the following information:

9 (1) – (5) (No change.)

10 (6) the name and address of any person who holds or owns 10 percent  
11 [~~40%~~] or more of any class of voting security, the class of the [~~such~~] security, the  
12 number of shares held of record or known to be beneficially owned, and the percentage  
13 of class so held or owned; and

14 (7) (No change.)

15 (e) Biographical information. If the ultimate controlling person is a corporation,  
16 organization, limited liability company, or other legal entity, furnish the following  
17 information for the directors and executive officers of the ultimate controlling person: the  
18 individual's name and address, his or her principal occupation and all offices and  
19 positions held during the past five years, and any conviction of crimes other than minor  
20 traffic violations. If the ultimate controlling person is an individual, furnish the  
21 individual's name and address, his or her principal occupation and all offices and  
22 positions held during the past five years, and any conviction of crimes other than minor

traffic violations. ~~[Furnish biographical data for the ultimate controlling person(s) if such person is an individual, or for the directors and executive officers of the ultimate controlling person if the ultimate controlling person is not an individual, with such biographical data in the form of the biographical affidavit form adopted by reference under §7.201(a)(1) of this title (relating to Forms Filings). Copies of this form are available from Financial Analysis and Examinations, Mail Code 303-1A, Texas Department of Insurance, P.O. Box 149099, 333 Guadalupe, Austin, Texas 78714-9099.]~~

(f) Transactions, relationships, and agreements.

(1) Briefly describe the following agreements in force, relationships subsisting, and transactions currently outstanding between the registrant and its holding company, its subsidiaries, and its affiliates:

(A) and (B) (No change.)

(C) investment activities of an investment pool and transactions between pools and participants (the Insurance Code Chapters 424 and 425 [Articles ~~2.10-5 and 3.33, §4(g)]~~);

(D) - (L) (No change.)

(M) any affiliated transaction not disclosed in subparagraphs (A)-(L) of this paragraph which is subject to the Act, ~~[§4(d)]~~; and,

(N) (No change.)

(O) the corporate governance and internal control responsibilities of the insurer's board of directors, including a statement that:

1                                (i) the insurer's senior management or officers have  
2 approved and implemented, and continue to maintain and monitor, corporate  
3 governance and internal control procedures; and

4                                (ii) the insurer's board of directors oversees corporate  
5 governance and internal controls; and

6                                (P) any other information the commissioner requires.

7                                (2) No information need be disclosed if such information is not material.  
8 See §7.203(d) of this title (relating to Registration of Insurers). The description must  
9 ~~[shall]~~ be in a manner permitting ~~[as to permit]~~ the proper evaluation ~~[thereof]~~ by the  
10 commissioner, and must ~~[shall]~~ include at least the following: the nature and purpose of  
11 the transaction; the nature and amounts of any payments or transfers of assets between  
12 the parties; the identity of all parties to the ~~[such]~~ transaction; relationship of the  
13 affiliated parties to the registrant; and the holding company section number and/or  
14 commissioner's order number ~~[applicable thereto]~~.

15                                (g) Litigation or administration proceedings. A brief description of any litigation  
16 or administrative proceedings of the following types, either then pending or concluded  
17 within the preceding fiscal year, to which the ultimate controlling person or any of its  
18 directors or executive officers was a party or of which the property of any ~~[such]~~ person  
19 is or was the subject; give the names of the parties and the court or agency in which the  
20 ~~[such]~~ litigation or proceeding is or was pending:

1 (1) criminal prosecutions or administrative proceedings by any  
2 government agency or authority which may be relevant to the trustworthiness of any  
3 party ~~[thereto]~~; and

4 (2) (No change.)

5 (h) The insurer must furnish a statement that transactions entered into since the  
6 filing of the prior year's annual registration statement are not part of a plan or series of  
7 like transactions, the purpose of which is to avoid statutory threshold amounts and the  
8 review that might otherwise occur.

9 (i) ~~(h)~~ Financial statements and exhibits.

10 (1) Financial statements and exhibits should be attached to this statement  
11 as an appendix. List under this item the financial statements and exhibits ~~[se]~~ attached.

12 (2) If the ultimate controlling person is a corporation, an organization, a  
13 limited liability company, or other legal entity, the financial statements must include the  
14 annual financial statements of the ultimate controlling person and affiliates in the  
15 insurance holding company system as of the end of the person's latest fiscal year.

16 (3) If at the time of the initial registration, the annual financial statements  
17 for the latest fiscal year are not available, annual statements for the previous fiscal year  
18 may be filed and similar financial information must be filed for any subsequent period to  
19 the extent available. Financial statements may be prepared on either an individual  
20 basis or, unless the commissioner otherwise requires on a consolidated basis if  
21 consolidated statements are prepared in the usual course of business.

1                   (4) Other than with respect to the preceding, the financial statement must  
2 be filed in a standard form and format adopted by the National Association of Insurance  
3 Commissioners, unless an alternative form is accepted by the commissioner.  
4 Documentation and financial statements filed with the Securities and Exchange  
5 Commission or audited GAAP financial statements are deemed to be an appropriate  
6 form and format.

7                   (5) Unless the commissioner permits, the annual financial statements  
8 must be accompanied by the certificate of an independent public accountant to the  
9 effect that the statements present fairly the financial position of the ultimate controlling  
10 person and the results of its operations for the year then ended, in conformity with  
11 generally accepted accounting principles or with requirements of insurance or other  
12 accounting principles prescribed or permitted under law. If the ultimate controlling  
13 person is an insurer actively engaged in the business of insurance, the annual financial  
14 statements need not be certified, provided they are based on the Annual Statement of  
15 the insurer's domiciliary state and are in accord with requirements of insurance or other  
16 accounting principles prescribed or permitted under the law and regulations of that  
17 state.

18                   (6) Any ultimate controlling person who is an individual may file personal  
19 financial statements that are reviewed rather than audited by an independent public  
20 accountant. The review must be conducted in accord with standards for review of  
21 personal financial statements published in the *Personal Financial Statements Guide* by  
22 the American Institute of Certified Public Accountants. Personal financial statements

1 must be accompanied by the independent public accountant's Standard Review Report  
2 stating that the accountant is not aware of any material modifications that should be  
3 made to the financial statements for the statements to be in conformity with generally  
4 accepted accounting principles. ~~[The financial statements shall include the annual~~  
5 ~~financial statements (including profit and loss) of the ultimate controlling person in the~~  
6 ~~insurance holding company system as of the end of the person's latest fiscal year and~~  
7 ~~all subsidiaries of the registrant. Such financial statements may be prepared on either~~  
8 ~~an individual basis, or unless the commissioner otherwise requires, on a consolidated~~  
9 ~~basis if such consolidated statements are prepared in the usual course of business.~~  
10 ~~The annual financial statements shall be accompanied by the certificate of an~~  
11 ~~independent public accountant to the effect that such statements present fairly the~~  
12 ~~financial position of any ultimate controlling person (other than a natural person) and the~~  
13 ~~results of its operations for the year then ended, in conformity with generally accepted~~  
14 ~~accounting principles or with requirements of insurance or other accounting principles~~  
15 ~~prescribed or permitted under law. If the ultimate controlling person is an insurer which~~  
16 ~~is actively engaged in the business of insurance, the annual financial statements need~~  
17 ~~not be certified, provided they are based on the annual statement of such insurer filed~~  
18 ~~with the insurance department of the insurer's domiciliary state and are in accordance~~  
19 ~~with requirements of insurance or other accounting principles prescribed or permitted~~  
20 ~~under the law and regulations of such state.]~~

21 (7) Exhibits must ~~[shall]~~ include copies of the latest annual reports to  
22 shareholders of the ultimate controlling person, ~~[and]~~ proxy material used by the

ultimate controlling person[;] and any additional documents or papers required by regulation.

(i) [(+)] A Form C, Summary of Changes to Registration Statement, must be prepared and filed with this Form B. [~~Copy of the charter or articles of incorporation and bylaws. A copy of the charter or articles of incorporation and bylaws and all amendments thereto of the ultimate controlling person and the subsidiaries of the registrant shall be furnished.~~]

(k) [(+)] Signature and certification. Signature and certification of the following form:

**Figure: 28 TAC §7.210(k) [~~§7.210(j)~~]:**

SIGNATURE

Pursuant to the requirements of Chapter 823 [~~Section 3 of Article 21.49-4~~], Texas Insurance Code, the Registrant has caused this Registration

Statement to be [duly] signed on its behalf in the City of \_\_\_\_\_ and State of \_\_\_\_\_

on

\_\_\_\_\_, 20\_\_.

\_\_\_\_\_

(Name of Registrant)

(Seal)

By: \_\_\_\_\_

Attest:

\_\_\_\_\_

(Signature of Officer)

\_\_\_\_\_

(Title)

CERTIFICATION

THE STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Before me, the undersigned authority, on this day personally appeared

\_\_\_\_\_ known to me to be the

\_\_\_\_\_, who, after being placed on his or her oath, stated that

he or she has read the preceding application and that the answers, exhibits and

attachments forming it are true and correct as to any factual statements contained

[~~therein~~].

\_\_\_\_\_

(Signature)



Sworn to and subscribed before me on \_\_\_\_\_, 20\_\_ , to certify which  
witness my hand and seal of office.

\_\_\_\_\_

Notary Public in and for

(Seal)

\_\_\_\_\_, County, \_\_\_\_\_

**§7.211. Form C.**

(a) Summary of Changes to Registration Statement.

**Figure: 28 TAC §7.211(a):**

Filed with the Texas Department of Insurance

By

\_\_\_\_\_  
Name of Registrant

On Behalf of Following Insurance Companies

Name          Address

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

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Date: \_\_\_\_\_, 20\_\_\_\_

Name, title, address, and telephone number of individual to whom notices and  
correspondence concerning this statement should be addressed:

---

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1 \_\_\_\_\_  
2 \_\_\_\_\_  
3 \_\_\_\_\_  
4 \_\_\_\_\_  
5 \_\_\_\_\_

6 (b) Furnish a brief description of all items in the current annual registration  
7 statement which represent changes from the prior year's annual registration statement.  
8 The description must be in a manner permitting proper evaluation by the commissioner,  
9 and must include specific references to the items in the annual registration statement  
10 and to the terms contained.

11 (c) Changes occurring under §7.210(c) of this title (relating to Form B) in the  
12 percentage of each class of voting securities held by each affiliate need only be  
13 included where the changes result in ownership or holdings of 10 percent or more of  
14 voting securities, loss or transfer of control, or acquisition or loss of partnership interest.

15 (d) Changes occurring under §7.210(e) of this title (Form B) need only be  
16 included where an individual is, for the first time, made a director or executive officer of  
17 the ultimate controlling person; a director or executive officer terminates his or her  
18 responsibilities with the ultimate controlling person; or in the event an individual is  
19 named president of the ultimate controlling person.

20 (e) If a transaction disclosed on the prior year's annual registration statement  
21 has been changed, the nature of the change must be included. If a transaction  
22 disclosed on the prior year's annual registration statement has been effectuated, furnish

1 the mode of completion and any flow of funds between affiliates resulting from the  
2 transaction.

3 (f) The insurer must furnish a statement that transactions entered into since the  
4 filing of the prior year's annual registration statement are not part of a plan or series of  
5 like transactions whose purpose is to avoid statutory threshold amounts and the review  
6 that might otherwise occur.

7 (g) Signature and certification required as follows:

8 **Figure: 28 TAC §7.211(g):**

9 **SIGNATURE AND CERTIFICATION**

10 Pursuant to the requirements of Chapter 823, Texas Insurance Code, the Registrant  
11 has caused this Registration Statement to be signed on its behalf in the City of

12 \_\_\_\_\_ and State of \_\_\_\_\_ on

13 \_\_\_\_\_, 20\_\_.

14  
15 \_\_\_\_\_  
16 (Name of Registrant)

17 (Seal)

18 By: \_\_\_\_\_

19 Attest:

1 \_\_\_\_\_

2 (Signature of Officer)

3 \_\_\_\_\_

4 (Title)

5 CERTIFICATION

6 THE STATE OF \_\_\_\_\_

7 COUNTY OF \_\_\_\_\_

8 Before me, the undersigned authority, on this day personally appeared

9 \_\_\_\_\_ known to me to be the

10 \_\_\_\_\_, who, after being placed on his or her oath, stated that

11 he or she has read the preceding application and that the answers, exhibits and

12 attachments forming it are true and correct as to any factual statements contained.

13 \_\_\_\_\_

14 (Signature)

15 Sworn to and subscribed before me on \_\_\_\_\_, 20 \_\_\_\_\_, to certify which

16 witness my hand and seal of office.

17 \_\_\_\_\_

18 Notary Public in and for

(Seal)

\_\_\_\_\_, County, \_\_\_\_\_

**§7.212. Form D.**

(a) Prior Notice of a Transaction.

**Figure: 28 TAC §7.212(a):**

Filed with the Texas Department of Insurance

By

\_\_\_\_\_

Name of Applicant

On behalf of following insurance companies

Name          Address

\_\_\_\_\_

\_\_\_\_\_

1 \_\_\_\_\_

2 \_\_\_\_\_

3 \_\_\_\_\_

4 \_\_\_\_\_

5 \_\_\_\_\_

6 \_\_\_\_\_

7 \_\_\_\_\_

8 \_\_\_\_\_

9 \_\_\_\_\_

10        Date: \_\_\_\_\_, 20

11 \_\_\_\_\_

12    Name, title, address, and telephone number of individual to whom notices and

13    correspondence concerning this statement should be addressed:

14 \_\_\_\_\_

15 \_\_\_\_\_

16 \_\_\_\_\_

17 \_\_\_\_\_

18 \_\_\_\_\_

19 \_\_\_\_\_

20 \_\_\_\_\_

21 \_\_\_\_\_

22 \_\_\_\_\_

1  
2       **(b) Identity of parties to transaction. Furnish the following information for each of**  
3 **the parties to the transaction:**

4               **(1) name;**

5               **(2) home office address;**

6               **(3) principal executive office address;**

7               **(4) the organizational structure, i.e. corporation, partnership, individual,**  
8 **trust, etc.;**

9               **(5) a description of the nature of the parties' business operations;**

10              **(6) relationship, if any, of other parties to the transaction to the insurer**  
11 **filing the notice, including any ownership or debtor/creditor interest by any other parties**  
12 **to the transaction in the insurer seeking approval, or by the insurer filing the notice in**  
13 **the affiliated parties;**

14              **(7) where the transaction is with a non-affiliate, the name(s) of the**  
15 **affiliate(s) which will receive, in whole or in substantial part, the proceeds of the**  
16 **transaction.**

17       **(c) Description of the transaction. Furnish the following information for each**  
18 **transaction for which notice is given:**

19              **(1) a statement identifying the statute under which the transaction is filed;**

20              **(2) a statement of the nature of the transaction and the reasons for**  
21 **entering into or changing the transaction;**



1                   (3) a statement of how the transaction complies with Section 823.101;

2   and

3                   (4) the proposed effective date of the transaction; and

4                   (5) the financial impact of the transaction on the domestic insurer.

5           (d) Sales, purchases, exchanges, loans, extensions of credit, guarantees or  
6   investments.

7                   (1) Furnish a brief description of the amount and source of funds,  
8   securities, property, or other consideration for the sale, purchase, exchange, loan,  
9   extension of credit, guarantee, or investment, whether any provision exists for purchase  
10   by the insurer filing notice, by any party to the transaction, or by any affiliate of the  
11   insurer filing notice, a description of the terms of any securities being received, if any,  
12   and a description of any other agreements relating to the transaction such as contracts  
13   or agreements for services, consulting agreements, and the like. If the transaction  
14   involves other than cash, furnish a description of the consideration, its cost, and its fair  
15   market value, together with an explanation of the basis for evaluation.

16                  (2) If the transaction involves a loan, extension of credit or a guarantee,  
17   furnish a description of the maximum amount the insurer will be obligated to make  
18   available under the loan, extension of credit, or guarantee, the date on which the credit  
19   or guarantee will terminate, and any provisions for the accrual of or deferral of interest.

20                  (3) If the transaction involves an investment, guarantee, or other  
21   arrangement, state the period during which the investment, guarantee, or other  
22   arrangement will remain in effect, together with any provisions for extensions or

1 renewals of the investments, guarantees, or arrangements. Furnish a brief statement  
2 as to the effect of the transaction upon the insurer's surplus.

3 (e) Loans or extensions of credit to a non-affiliate.

4 (1) If the transaction involves a loan or extension of credit to any person  
5 who is not an affiliate, furnish a brief description of the agreement or understanding  
6 through which the proceeds of the proposed transaction, in whole or in substantial part,  
7 are to be used to make loans or extensions of credit to, purchase the assets of, or make  
8 investments in, any affiliate of the insurer making loans or extensions of credit, and  
9 specify in what manner the proceeds are to be used to loan to, extend credit to,  
10 purchase assets of, or make investments in any affiliate. Describe the amount and  
11 source of funds, securities, property, or other consideration for the loan or extension of  
12 credit and, if the transaction is one involving consideration other than cash, a  
13 description of its cost and its fair market value together with an explanation of the basis  
14 for evaluation. Furnish a brief statement as to the effect of the transaction on the  
15 insurer's surplus.

16 (f) Reinsurance.

17 (1) If the transaction is a reinsurance agreement or modification or a  
18 reinsurance pooling agreement or modification described in the Insurance Code  
19 §823.103(a)(2), furnish a description of the known or estimated amount of liability to be  
20 ceded or assumed in each calendar year, the period the agreement will be in effect, and  
21 a statement whether an agreement or understanding exists between the insurer and  
22 non-affiliate that any portion of the assets constituting the consideration for the

agreement will be transferred to one or more of the insurer's affiliates. Furnish a brief description of the consideration involved in the transaction, and a brief statement as to the effect of the transaction upon the insurer's surplus.

(g) Management Agreements, service agreements, and cost sharing arrangements.

(1) For management and service agreements, furnish:

(A) a brief description of the managerial responsibilities or services to be performed;

(B) a brief description of the agreement, including a statement of its duration, together with brief descriptions of the basis for compensation and the terms under which payment or compensation is to be made.

(2) For cost-sharing arrangements, furnish:

(A) a brief description of the purpose of the agreement;

(B) a description of the period of time during which the agreement is to be in effect;

(C) a brief description of each party's expenses or costs covered by the agreement;

(D) a brief description of the accounting basis to be used in calculating each party's costs under the agreement;

(E) a brief statement as to the effect of the transaction upon the insurer's policyholder surplus;

(F) a statement regarding the cost allocation methods specifying whether proposed charges are cost or market based. If market based, include the rationale for using market instead of cost, including justification for the company's determination that amounts are fair and reasonable; and

(G) a statement regarding compliance with the NAIC Accounting Practices and Procedure Manual regarding expense allocation.

(h) Signature and certification required as follows:

**Figure: 28 TAC §7.212(h):**

SIGNATURE

Pursuant to the requirements of the Insurance Code Chapter 823, the applicant has caused this Prior Notice of a Transaction Statement to be signed on its behalf in the City of \_\_\_\_\_ and State of \_\_\_\_\_  
on  
\_\_\_\_\_, 20\_\_.

-

(Name of applicant)

(Seal)

By: \_\_\_\_\_

Attest:

\_\_\_\_\_

(Signature of Officer)

\_\_\_\_\_

(Title)

CERTIFICATION

THE STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Before me, the undersigned authority, on this day personally appeared

\_\_\_\_\_ known to me to be the

\_\_\_\_\_, who, after being placed on his or her oath, stated that

he or she has read the preceding application and that the answers, exhibits and

attachments forming it are true and correct as to any factual statements contained.

\_\_\_\_\_

(Signature)

Sworn to and subscribed before me on \_\_\_\_\_, 20 \_\_\_\_\_, to certify which

witness my hand and seal of office.

\_\_\_\_\_

Notary Public in and for

(Seal)

\_\_\_\_\_, County, \_\_\_\_\_

**§7.213. Form E.**

(a) Notice of Ordinary and Extraordinary Dividends and Other Distributions.

Complete subsection (b) for an Ordinary Dividend pursuant to §7.203(o) and complete  
subsections (b) and (c) for an Extraordinary Dividend pursuant to §7.204(d).

**Figure: 28 TAC §7.213(a):**

Date: \_\_\_\_\_, 20\_\_\_\_\_

Name, title, address, e-mail address, and telephone number of individual to whom  
notices and correspondence concerning this statement should be addressed:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

1 \_\_\_\_\_

2 \_\_\_\_\_

3 (b) Dividend or distribution.

4 (1) Name of insurer.

5 (2) Address of insurer.

6 (3) Declaration of dividend:

7 (A) Amount of declared dividend or distribution: \$ \_\_\_\_\_

8 (B) Recipient of declared dividend or distribution.

9 (C) Declaration date.

10 (D) Proposed payment date.

11 (4) The dividend or distribution is in compliance with the Act and is  
12 indicated below:

13 (A) Calculation.

14 (i) Amount of current dividend or distribution: \$ \_\_\_\_\_

15 (ii) Dividends or distributions declared during preceding 12  
16 months, excluding current dividend or distribution but including declaration date,  
17 payment date, type of dividend or distribution, and amount: \$ \_\_\_\_\_

18 (iii) Total of (i) and (ii): \$ \_\_\_\_\_

19 (iv) Surplus as regards policyholders (net worth for HMO) as  
20 of preceding December 31: \$ \_\_\_\_\_

21 (l) 10 percent of (iv) for Life, P&C, and HMO: \$ \_\_\_\_\_

22 \_\_\_\_\_

1 (II) 20 percent of (iv) for Title: \$ \_\_\_\_\_

2 (v) Operating income:

3 (I) Net gain from operations before realized capital

4 gains as of preceding December 31 for Life, Title and HMO: \$ \_\_\_\_\_

5 (II) Net income as of preceding December 31 for

6 P&C: \$ \_\_\_\_\_

7 (vi) Greater of calculated surplus from (iv) or the operating

8 income from (v): \$ \_\_\_\_\_

9 (B) If amount from (iii) exceeds the amount from (vi) above, then

10 provide the information required by (c) of this subsection relating to extraordinary

11 dividend and distribution.

12 (5) Earned surplus, defined as the unassigned funds (surplus) less

13 unrealized capital gains, must be greater than the current dividend or distribution

14 amount stated in (4)(i). Earned surplus must be calculated as of the most recent

15 financial information available.

16 (6) Supporting documentation of the balance sheet, summary of

17 operations including capital and surplus account, and cash flow statement of the most

18 recently filed monthly, quarterly, or annual statement, together with documentation to

19 support the standards specified in the Insurance Code §823.008.

20 (7) Additional requirements are as follows:

21 (A) Identify property, including bank accounts, to be used to pay

22 the dividend or distribution or to be converted to pay the dividend or distribution.



(10) Signature and certification.

**Figure: 28 TAC §7.213(b)(10):**

SIGNATURE

Date:

\_\_\_\_\_

Name of Insurer

By:

(printed name)

Title:

(c) Extraordinary Dividend and Distribution.

(1) State purpose of dividend or distribution.

(2) Furnish a copy of directors' resolution declaring dividend and any  
shareholders resolution supporting such declaration are to be attached to this form.

(3) Effect of declaration.

(A) Give the total amount of dividend or distribution in dollars when  
so expressed, or if declared in some other terms, the approximate dollar value and  
identify the exact property in which the dividend or distribution is payable if not cash  
(include method of valuing the property other than cash).

1                   (B) Explain any difference in treatment and basis with regard to  
2 any share of issued and outstanding stock that will not be treated equally in distribution  
3 of dividend, excluding treatment of classes of stock.

4                   (C) Explain basis concerning the different treatment in distribution  
5 of dividend given by class of stock.

6                   (D) Give number of shares by class to whom proposed dividend is  
7 payable, the dividend per share of each class and total amount of dividend by class of  
8 stock.

9                   (E) By class of stock, give total amount of each dividend declared,  
10 the amount payable per share, and the date of declaration for the five calendar years  
11 preceding this notice.

12                   (F) Give the net gain or loss from operations after dividends to  
13 policyholders and federal income taxes, excluding capital gains and losses of the  
14 Insurer for each of the last five calendar years as reported in the Insurer's annual  
15 statement to the department.

16                   (4) Provide a balance sheet, income statement, and cash flow statement  
17 for the interim period from the last annual statement to the end of the month preceding  
18 the month in which this application is submitted. Include pro forma columns for the  
19 dividend or distribution, post-payment numbers, and projected numbers for the current  
20 year end and the following year end.

1                   (5) Provide the National Association of Insurance Commissioners  
2 authorized control level Risk Based Capital Ratio before and after dividend or  
3 distribution and projected for year end and the following year end.

4                   (6) Provide a discussion of any recent operational changes and  
5 anticipated changes to the business plan, including an increase or reduction of premium  
6 volume, changes in product mix and markets impacting underwriting and expense  
7 ratios, reinsurance changes impacting risk retention, and changes in investment  
8 strategy impacting the portfolio.

9                   (7) Explain any restrictions on the volume of the Insurer's underwritings  
10 within the last year or in the immediate future that did not previously exist.

11                   (8) Explain any limitations and reasons for limitations established for  
12 geographical underwriting within the last year or in immediate future that did not  
13 previously exist.

14                   (9) Describe the existing reinsurance program of Insurer, including limits  
15 of retention.

16                   (10) Identify and describe any deviation of more than 10 percent in value  
17 of any loans or investments held by Insurer (other than replacement of maturing  
18 securities with comparable securities) from that disclosed in your last annual statement.

19                   (11) Signatures and certification.

20 **Figure: 28 TAC §7.213(c)(11):**

SIGNATURE

Pursuant to the requirements of the Insurance Code §823.107, the Insurer has caused  
this notice to be signed on its behalf in the City of \_\_\_\_\_ and the State of  
\_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_

(Name of Insurer)

(Seal)

By: \_\_\_\_\_

(Name)(Title)

Attest:

\_\_\_\_\_

(Signature of Officer)

\_\_\_\_\_

(Title)

CERTIFICATION

THE STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Before me, the undersigned authority, on this day personally appeared

\_\_\_\_\_ known to me to be the

\_\_\_\_\_, who, after being placed on his or

her oath, stated that he or she has read the preceding application and that the answers,

exhibits, and attachments forming it are true and correct as to any factual statements

contained.

(Signature)

Sworn to and subscribed before me on \_\_\_\_\_, 20\_\_\_\_, to

certify which witness my hand and seal of office.

(Signature)

Notary Public in and for

(Seal)

\_\_\_\_\_, County, \_\_\_\_\_

**§7.214. Form F.**

Name, title, address, and telephone number of individual to whom notices and correspondence concerning this statement should be addressed:

---

(b) The registrant/applicant, to the best of its knowledge and belief, must provide information regarding the following areas that could produce enterprise risk as defined in §7.202(12) of this title (relating to Form D), provided such information is not disclosed in the Insurance Holding Company System Annual Registration Statement filed on behalf of itself or another insurer for which it is the ultimate controlling person:

(1) any material developments regarding strategy, internal audit findings, compliance, or risk management affecting the insurance holding company system;

(2) acquisition or disposal of insurance entities and reallocation of existing financial or insurance entities within the insurance holding company system;

(3) any changes of shareholders of the insurance holding company system exceeding 10 percent or more of voting securities;

(4) developments in various investigations, regulatory activities, or litigation that may have a significant bearing or impact on the insurance holding company system;

(5) business plan of the insurance holding company system and summarized strategies for the next 12 months;

(6) identification of material concerns of the insurance holding company system raised by supervisory college, if any, in last year;

(7) identification of insurance holding company system capital resources and material distribution patterns;



1                   (8) identification of any negative movement, or discussions with rating  
2 agencies which may have caused, or may cause, potential negative movement in the  
3 credit ratings and individual insurer financial strength ratings assessment of the  
4 insurance holding company system (including both the rating score and outlook);

5                   (9) information on corporate or parental guarantees throughout the  
6 holding company and the expected source of liquidity should the guarantees be called;  
7 and

8                   (10) identification of any material activity or development of the insurance  
9 holding company system that, in the opinion of senior management, could adversely  
10 affect the insurance holding company system.

11               (c) The registrant/applicant may attach the appropriate form most recently filed  
12 with the U.S. Securities and Exchange Commission, provided the registrant/applicant  
13 includes specific references to those areas listed pursuant to subsection (b) of this  
14 section for which the form provides responsive information. If the registrant/applicant is  
15 not domiciled in the U.S., it may attach its most recent public audited financial statement  
16 filed in its country of domicile, provided the registrant/applicant includes specific  
17 references to those areas listed pursuant to subsection (b) of this section for which the  
18 financial statement provides responsive information.

19               (d) Obligation to Report. If the registrant/applicant has not disclosed any  
20 information pursuant to subsection (b) of this section, the registrant/applicant must  
21 include a statement affirming that, to the best of its knowledge and belief, it has not  
22 identified enterprise risk subject to disclosure pursuant to subsection (b) of this section.

1           (e) Pursuant to Acts 2011, 82nd Leg., ch.922 (S.B. 1431), §18, the  
2   commissioner has determined that the National Association of Insurance  
3   Commissioners has completed an enterprise risk form and has proposed a master  
4   confidentiality agreement.